

COPYRIGHT ROYALTY BOARD
THE LIBRARY OF CONGRESS

IN THE MATTER OF:

DISTRIBUTION OF 2000, :No. 2008-02
2002, 2003 CABLE :
ROYALTY FUNDS :CD 2000-03
:Phase II

Tuesday,
June 4, 2013

Fourth Floor Hearing Room
Madison Building
Library of Congress
101 Independence Avenue, SE
Washington, DC

The above-entitled matter came on for
hearing, pursuant to notice, at 9:00 a.m.

BEFORE: THE HONORABLE SUZANNE M. BARNETT,
Chief Judge
THE HONORABLE JESSE FEDER
THE HONORABLE DAVID STRICKLER

Neal R. Gross & Co., Inc.
202-234-4433

On Behalf of the Motion Picture
Association of America:

GREGORY O. OLANIRAN, ESQ.
LUCY HOLMES PLOVNICK, ESQ.

KIMBERLY NGUYEN, ESQ.

of: Mitchell Silberberg & Knupp, LLP
1818 N Street, Northwest
Eighth Floor
Washington, DC 20036
(202) 355-7917

ALSO PRESENT:

RAUL GALAZ
DENISE VERNON

Neal R. Gross & Co., Inc.
202-234-4433

APPEARANCES:

On Behalf of the Settling Devotional
Claimants:

CLIFFORD M. HARRINGTON, ESQ.
MATTHEW J. MacLEAN, ESQ.
VICTORIA LYNCH, ESQ.

of: Pillsbury Winthrop Shaw Pittman
2300 N Street, Northwest
Washington, DC 20037-1122
(202) 663-8525

ARNOLD LUTZKER, ESQ.
of: Lutzker and Lutzker, LLP
1233 20th Street, Northwest
Washington, DC 20036
(202) 408-7600

On Behalf of the Independent Producers
Group :

BRIAN D. BOYDSTON, ESQ.

of: Pick & Boydston, LLP
10786 LeConte Avenue
Los Angeles, CA 90024
(213) 624-1996

Neal R. Gross & Co., Inc.
202-234-4433

TABLE OF CONTENTS

WITNESS	DIRECT	CROSS	REDIRECT	RECROSS
Paul Lindstrom			419	
By Mr. Boydstrom	368			425
By Mr. Harrington	417			431

Dr. Jeffrey Gray	433			
By Mr. Boydstrom		493		

EXHIBIT NO.	DESCRIPTION	MARK	RECD
IPG			

504	Nielsen Data	394	
505	Nielsen File Format	625	
506	Nielsen 00	626	
507	Regression Analysis	645	646

MPAA

364	Direct Testimony of		
	Dr. Jeffrey Gray	441	442
365	Rebuttal Testimony of		
	Dr. Jeffrey Gray	441	442

Neal R. Gross & Co., Inc.
202-234-4433

P-R-O-C-E-E-D-I-N-G-S

9:03 A.M.

CHIEF JUDGE BARNETT: We are back

on the record in the matter of the
distribution of cable royalty funds for the
years 2000-2003, Phase II.

And Mr. Olaniran, had you
completed your examination of your client, of
your witness?

MR. OLANIRAN: Yes, Your Honor.

CHIEF JUDGE BARNETT: Okay, thank
you.

Mr. Boydston.

MR. BOYDSTON: Thank you, Your
Honor.

CROSS EXAMINATION

BY MR. BOYDSTON:

Q Good morning, Mr. Lindstrom.

A Good morning.

Q My name is Brian Boydston. I'm
the attorney for Independent Producers Group.
You've testified that you provided Nielsen

Neal R. Gross & Co., Inc.
202-234-4433

diary data to the MPAA in connection with this
proceeding, correct?

A That is correct.

Q And that that information
constituted diary information for the four
sweeps weeks during each of the relevant four
years, correct?

A Including March and October in
some instances as well.

Q Understood, thank you. Now I just
want to confirm, I think you may have
mentioned in your direct testimony, but I
don't know if it quite made this clear. It
seems an obvious point, but these ratings
data, they don't reflect actual viewing by the
population that they're serving. They
represent viewing based on discrete numbers of
people within the population being surveyed,
correct?

A If I understand the question
correctly, it is a sample that is being
measured rather than the full census

Neal R. Gross & Co., Inc.
202-234-4433

population.

Q And so for instance, when there's
a diary entry for a particular program at a
particular time, one diary entry may be
extrapolated on to a number of additional
households, correct?

A That is correct.

Q Sometimes maybe it could be as
much as 10,000, maybe more, maybe less
households?

A Ten thousand would be high in
terms of those weights, but it possibly could
go that high. It's probably more in the range
of a thousand for the most part.

Q And I understand that you've
appeared in these proceedings for quite some
time, decades?

A That's correct.

Q And you appeared on behalf of the
MPAA in the 1997 proceedings that took place
in the Year 2001, correct?

A That is correct.

Neal R. Gross & Co., Inc.
202-234-4433

Q Are you familiar with the
September 2001 distribution order that came
out of those 1997 proceedings?

A I don't recall the details.

Q Have you reviewed it at some time
though?

A I'm sure that I have, but I don't
recall when I did though.

Q Fair enough. Do you recall that
in that decision on the '97 proceedings the
CARP referenced a high incidence of zero
viewing in the Nielsen diary data?

A Yes, I do.

Q And do you recall that in the '97
proceedings it was found that the aggregate
zero viewing equaled 73 percent of all major
broadcasts?

A I don't recall the details of it.

Q Would that figure of 73 percent
surprise you or does that seem out of whack?

A No, it's actually very much in
line that even with the people meter that

Neal R. Gross & Co., Inc.
202-234-4433

1 currently is the source of what's done for a
 2 \$70 billion advertising business, that if you
 3 dive into it that there's approximately 65
 4 percent of the quarter hours would, in fact,
 5 be zero viewing for stations. Now obviously,
 6 that's in direct relationship to the size of
 7 the audience to those stations, some more,
 8 some less. But that is not inconsistent with
 9 what's currently out there in the standard
 10 audience measurement.

11 Q You mentioned, in your answer
 12 right now, you mentioned metered ratings,
 13 correct?

14 A That is correct.

15 Q And I assume you're talking on a
 16 national level in your previous comment?

17 A Yes, I was.

18 Q On a national level would one see
 19 that sort of incidence of zero viewing for
 20 diaries as opposed to metered ratings?

21 A Again, it would be consistent
 22 across meters and diaries. It would not be

1 surprising to see those types of levels. And
 2 again, in direct relationship to the size of
 3 the station that's trying to be measured. And
 4 we try and be very inclusive for all stations
 5 and therefore there are a lot with very small
 6 viewing levels.

7 Q From your testimony yesterday, my
 8 recollection is that you were saying that the
 9 diary ratings or the ratings derived from
 10 diaries, there are many more diaries and much
 11 more diary data that Nielsen collects than
 12 metered data, correct?

13 A There are more sample households
 14 that are being measured. The extent of the
 15 data that's being collected, because the meter
 16 is 365 days a year, is very extensive, so I
 17 wouldn't phrase it that way. But there are
 18 certainly much larger sample sizes with the
 19 diary.

20 Q In terms of number of households
 21 covered, my understanding from your testimony
 22 was that the diaries are much greater than the

1 meters?

2 A That is correct.

3 Q On what kind of a scale?

4 A I don't know exactly what the
 5 metered sample was at the time, but I would
 6 estimate maybe 5,000 or 10,000 during that
 7 period of time. Currently, right now,
 8 nationally, it's 25,000. And the diary itself
 9 is about 25,000 per week within independent
 10 samples so that we're measuring about 400,000
 11 plus households a year with the diary.

12 Q So at the time in question, 2002,
 13 2003, your estimate, just refresh my
 14 recollection, your estimate at that time is
 15 that there must have been a couple hundred
 16 thousand diary households and what did you
 17 say, 25,000 meters?

18 A No, it's 25,000 now. It might be
 19 5,000 or 10,000. I honestly don't recall.

20 Q So there could be as much as a 40
 21 to 1 ratio during this time period of diaries
 22 to meters or maybe greater?

1 A That's correct.

2 Q Okay. Now isn't it true that the
 3 September 2001 order on the '97 proceedings
 4 directed the MPAA to decrease the incidence of
 5 zero viewing in its study if it was going to
 6 use such Nielsen data in the future?

7 A I don't recall.

8 Q Let me ask you to take a look at
 9 what's been marked as Exhibit 7 in the
 10 document in front of you there which is the
 11 testimony of Raul Galaz in rebuttal to the
 12 direct statement of MPAA-represented program
 13 suppliers and that's Exhibit 7 to the Galaz
 14 testimony in rebuttal to the MPAA.

15 A Exhibit 7?

16 Q Yes. And you can go past that
 17 page that just says Exhibit 7. I'll represent
 18 to you that this is a printout of one of the
 19 Nielsen data, raw data files that was provided
 20 to IPG in this matter. And if you could just
 21 look at the first page or so. Does this look
 22 like, does the data that's represented here

1 look like Nielsen diary data to you?

2 A Yes, it does.

3 Q And my understanding is these are
4 supposed to be representing 16 weeks of
5 television viewing, correct?

6 A If it's 2003, I would -- I would
7 assume, but I'm not completely sure.

8 Q Okay, part of the reason for my
9 inquiry here is that in terms of -- well, do
10 you see -- it's about the fourth column over.
11 It's entitled zero viewing instances, no, no.
12 It's the next one, aggregate instances.

13 My understanding is those figures
14 under aggregate instances, the first of which
15 is 13,440, that these are the number of
16 quarter hour time periods measured in these
17 different entries. Is that correct?

18 A That would be my interpretation.

19 Q Now I'm going to have to do a
20 little math here because I want to try and
21 figure out how many quarter hours are in a
22 week. And -- excuse me, how many quarter-hour

Neal R. Gross & Co., Inc.
202-234-4433

1 time periods are in a 16-week sweeps sample.

2 And my calculation is that there are 4 quarter
3 hours in every hour, multiplied by 24 hours in
4 a day, multiplied by 7 days in a week,
5 multiplied by 16 weeks gives a product of
6 10,752. And we can do it on our calculators.
7 Does that sound right to you?

8 A The math as you were running
9 through, I didn't follow and multiply it out
10 to the 10,000.

11 Q Should we do that very quickly?
12 Would you mind doing that very quickly just to
13 confirm that? I can give you a paper and
14 pencil or do you have the ability to do it in
15 your head?

16 So it was 4 quarter hours times 24
17 hours in a day times 7 days a week times 16
18 weeks.

19 A Somewhere around 11,000 or so.

20 Q The figure I had was 10,752. Now
21 as I look back at Exhibit 7, under the
22 aggregate instances which is listing the

Neal R. Gross & Co., Inc.
202-234-4433

1 number of quarter hour time periods, what I
2 see are numbers generally in excess of that,
3 some close to double that or in fact, exactly
4 double that such as the second entry at
5 21,504. Now it would appear to me that that
6 means that on that second entry of WTBS that
7 appears on the first page of Exhibit 7 that
8 that would mean that actually what was being
9 presented here in this raw data was more than
10 16 weeks of information, more like 32 weeks.
11 Is that a reasonable conclusion?

12 A The aggregate number of quarter
13 hours, yes.

14 Q And as I said if one looks down
15 many of these, almost all of them seem to be
16 in excess of 10,752. My conclusion from that
17 was that while this data was aimed at
18 providing 16 weeks of data, it actually
19 provides a bit more than that. Is that a
20 reasonable conclusion?

21 A It is including the additional
22 measurement periods of March and October which

Neal R. Gross & Co., Inc.
202-234-4433

1 would end up adding a considerable degree of
2 quarter hours to that.

3 Q Right. It just seems from the
4 mathematical standpoint there may be some time
5 even in addition to those two months, would
6 you agree? Because two months would be an
7 additional 8 weeks, because 8 plus 16 would be
8 24. And as I say, the second entry represents
9 32 weeks of quarter hour periods, so it seems
10 that there must be some additional data coming
11 into these beyond just the regular sweeps
12 weeks, the additional two months of October
13 and May. Do you know where that other time is
14 coming from?

15 MR. OLANIRAN: Your Honor, I'd
16 like to object to Mr. Boydston's line of
17 questioning.
18 Mr. Boydston is actually implying that this
19 data that we're looking at is in fact the raw
20 data that Nielsen provided to IPG. In fact,
21 it is not. This is an analysis that was
22 prepared, I suppose, by Mr. Galaz, or someone

Neal R. Gross & Co., Inc.
202-234-4433

1 at IPG. For the purpose of this proceeding,
2 Nielsen does not, for example, if you look at
3 the last column, does not do zero viewing
4 instances in its raw data.

5 This is not the data or the format
6 in which you will find the Nielsen data. So -
7 -

8 MR. BOYDSTON: That contradicts
9 his testimony so far. His testimony was that
10 these numbers for minutes were what I asked
11 him they are.

12 MR. OLANIRAN: These are not the
13 raw data that was produced to IPG. You can
14 direct the question to Mr. Lindstrom to see
15 whether or not Nielsen calculates zero viewing
16 instances. I'm pretty certain they don't.

17 MR. BOYDSTON: I haven't asked
18 about that.

19 MR. OLANIRAN: You referred to
20 these as raw data in your line of questioning
21 and I just want to make sure we're clear about
22 that.

1 CHIEF JUDGE BARNETT: The witness
2 has already accepted this and has answered
3 questions about it. You can cross examine,
4 Mr. Olaniran.

5 BY MR. BOYDSTON:

6 Q Do you know where these additional
7 minute quarter hour periods could have come
8 from? As I said, you clarified and you had
9 already testified that in addition to the 16
10 sweeps, there's oftentimes time for May and
11 October. But it seems like there's even more
12 in some of these entries and I'm just
13 wondering if you have knowledge as to where
14 the other minutes come from?

15 A Again, I'm not sure where all the
16 aggregates are being built up to, but there
17 are many instances where that could end up
18 occurring.

19 Q Okay. Have you performed an
20 analysis yourself in order to determine the
21 existence of zero viewing in the raw Nielsen
22 data?

1 A I personally have not.

2 Q Has someone at Nielsen done that
3 as far as you know?

4 A Not that I know of.

5 Q Do you know of anyone else who has
6 done that?

7 A Not in terms of specifically
8 looking at that aspect that I recall.

9 Q My follow-up questions were
10 because
11 -- and I asked you and you said "I personally
12 haven't" which implied to me that maybe you
13 knew that someone else had. That was all.
14 But you don't know of anyone else that has
15 done that?

16 A I can only answer for myself in
17 this case.

18 Q Okay. Is --

19 JUDGE STRICKLER: Excuse me,
20 counsel. I didn't mean to step on your words.
21 May I ask him a question to follow up?

22 MR. BOYDSTON: Absolutely.

1 JUDGE STRICKLER: One of your
2 answers before, Mr. Lindstrom, was that you
3 understood that there were other reasons why
4 the aggregates would total more than the
5 additional two months. Counsel didn't ask you
6 what those other instances would be that would
7 account for that. Can you tell us what those
8 other instances would be?

9 THE WITNESS: There could be
10 situations like with GN. GN, there's actually
11 two separate feeds that are going on, one of
12 which is the local GN. The other is the
13 satellite feed of GN which has in some cases
14 different programming. It's possible if
15 somebody were looking at the data, they would
16 aggregate up each signal individually for the
17 quarter hours and then put them together.

18 JUDGE STRICKLER: Sort of a double
19 count on the WGN numbers, is that what you're
20 saying?

21 THE WITNESS: Potentially that's
22 one way of thinking about it, but again, I'm

1 not sure what are the occurrences in terms of
2 how this is built up. What I had been
3 answering originally was going this looks to
4 be consistent with the type of data that would
5 come out from what we were producing, but I'm
6 not sure where the 21,000 directly were coming
7 from.

8 JUDGE STRICKLER: And you said
9 there were instances that you could imagine as
10 to why it would be that you have the aggregate
11 totalling more than the additional two months
12 and you just gave the WGN example. Any other
13 instances or is that all that you can recall?

14 THE WITNESS: That would be the
15 one that -- that type of situation would be
16 the one that would be most likely to come to
17 mine.

18 JUDGE STRICKLER: Anything else?

19 THE WITNESS: Not that I can think
20 offhand.

21 JUDGE STRICKLER: Thank you.
22 Please proceed.

Neal R. Gross & Co., Inc.
202-234-4433

1 MR. BOYDSTON: Thank you.

2 BY MR. BOYDSTON:

3 Q Have you reviewed the rebuttal
4 testimony of Raul Galaz in this matter?

5 A Very briefly.

6 Q Have you reviewed the rebuttal
7 testimony of Dr. Laura Robinson in this
8 matter?

9 A No, I haven't.

10 Q Based upon your review of Mr.
11 Galaz' rebuttal testimony, do you have any
12 disagreement that for this time period, 2000,
13 2003 the Nielsen diary data aggregate zero
14 viewing was between 78 percent and 82 percent
15 depending upon the year?

16 A I have no reason to disbelieve
17 that.

18 Q Do you have any reason to disagree
19 that the range of zero viewing for stations in
20 the MPAA viewer study was between less than 1
21 percent and 99.9 percent zero viewing
22 instances?

Neal R. Gross & Co., Inc.
202-234-4433

1 A I have no reason to believe that
2 would not be the case.

3 Q Thank you. Now is it accurate
4 that some of the station data that was
5 provided by Nielsen to the MPAA included
6 stations that showed 100 percent zero viewing
7 for the selected stations?

8 A I could not say one way or another
9 for sure on that.

10 Q Meaning you don't have any
11 recollection as to whether that occurred?

12 A I do not have a recollection as to
13 that specific.

14 Q Have you seen that instance before
15 in Nielsen data?

16 A I haven't looked for that
17 specifically. It would not be, again,
18 inconsistent if it were a station with very,
19 very low viewing levels, again, keeping in
20 mind that the base population that we're
21 looking is somewhere in the neighborhood of
22 100 million households. In many of these

Neal R. Gross & Co., Inc.
202-234-4433

1 instances, we could be looking for viewing
2 that are at levels of a 1,000 during any given
3 quarter hour. It takes a lot in order to find
4 those which is why you need substantial sample
5 sizes, but any given quarter hour only has
6 25,000 as the base sample. That's why in
7 order to analyze that data, it really is
8 imperative to aggregate is across time. Zero
9 viewing is the specific quarter hours for
10 which the sample sizes would be relatively low
11 comparatively. And it really is necessary to
12 aggregate across.

13 Q And the difficulty in doing that
14 results in the incidence of zero viewing that
15 we see, correct?

16 A Because individual quarter hours
17 will be going against approximately a 25,000
18 sample size.

19 Q Right, if it was a 25 million
20 sample size, that would probably be a
21 different story, correct?

22 A Well, if it were two weeks, then

Neal R. Gross & Co., Inc.
202-234-4433

1 it would be 50,000; in 3 weeks, 75,000 and up
2 to the 400,000 plus, it's just the individual
3 quarter hours to look for zero viewing is
4 again not the purposes for which the study was
5 designed or terribly surprising when focusing
6 on that micro level.

7 Q And that's the issue is that when
8 focusing on that micro level, this particular
9 study has its limitations, correct?

10 A If one were trying to decide on
11 the audience for an individual quarter hour on
12 a low-rated station, there would be high
13 relative errors.

14 Q Correct, which makes it kind of a
15 tough yardstick to use for this, doesn't it?

16 A No. Because the whole purpose is
17 to aggregate programs across time. To
18 aggregate across days on strip programming, to
19 go across weeks and as those accumulate,
20 you're accumulating sample sizes which is the
21 way you eliminate a zero viewing issue. It's
22 the way that it works even in the example of

Neal R. Gross & Co., Inc.
202-234-4433

1 the people meter that I discussed of going
2 becomes an acceptable measure because, in
3 fact, you aggregate across time.

4 Q Now the figures I mentioned a
5 minute ago, in the '97 proceedings, there were
6 73 percent zero viewing in the raw Nielsen
7 data and of these proceedings on these years
8 it's between 78 and 82. Based on those simple
9 numbers, it seems clear that in this study for
10 these years, the incidence of zero viewing is
11 certainly higher, isn't it? I mean it's 82
12 percent versus 73 percent on the high end,
13 correct?

14 A But at the same time I think it's
15 imperative to go. It's not 80 percent of the
16 programs, in fact, have zero viewing. And so
17 that all that that might tell you in terms of
18 a decline or an increase rather and the degree
19 of zero viewing would suggest that there is
20 probably more fragmentation in the marketplace
21 that would cause distant signals to perhaps
22 have slightly less viewing. That is really

Neal R. Gross & Co., Inc.
202-234-4433

1 the main conclusion that you can draw from
2 that type of data set.

3 JUDGE STRICKLER: I have a
4 question for you about the zero viewing
5 quarter hour segments. You said as the sample
6 gets larger, you tend to correct for that.
7 Does Nielsen know whether or not the quarter
8 hours for the survey for one week which is a
9 zero, whether or not the zero repeats for that
10 same quarter hour for that same low-rated show
11 in the next survey and then survey and the
12 next survey or are these zeros all across the
13 low-rated shows and you don't figure out which
14 is which?

15 THE WITNESS: No, well, we don't
16 take that step in the analysis. That's done
17 further down the line. But that's sort of the
18 way that this works is the idea that you may
19 have a zero in Week 1, but when you go to that
20 time period in that program in Week 2 and
21 you're adding them in together that you are
22 going to have a much greater likelihood that

Neal R. Gross & Co., Inc.
202-234-4433

1 you will find viewing in subsequent airings.
2 And we're not producing the data specifically
3 in the type of analysis that you're speaking
4 to other than the end product as I understand
5 it is ultimately an aggregation by program
6 across time which is where you do end up sort
7 of adding in the subsequent viewing. And you
8 would not have anywhere near 80 percent of the
9 programs with no viewing.

10 JUDGE STRICKLER: Yes, so when we
11 see 80 percent zero viewing, we're not saying
12 -- let me ask it this way, is that statistic
13 showing that a particular show, a low-rated
14 show, we'll call it Watching Paint Dry, a low-
15 rated show. It's not zero every time, every
16 quarter hour.

17 THE WITNESS: No.

18 JUDGE STRICKLER: Those 80 percent
19 zeros could be Watching Paint Dry, Watching
20 Grass Grow, two different shows.

21 THE WITNESS: Right. And if it
22 turned out that it was on five days a week and

Neal R. Gross & Co., Inc.
202-234-4433

1 three days nobody watched it, not nobody
2 watched it, but no viewing was recorded and in
3 the fourth and fifth day there was viewing
4 that was recorded, it would still show under
5 that scenario 65 percent zero viewing. But
6 the accumulated viewing across the five days
7 would be a fairly accurate or a reasonably
8 accurate reflection. And as you went across
9 weeks so that you have independent samples
10 adding to it, it will be a better and better
11 number the more weeks and sweeps that are
12 being combined.

13 BY MR. BOYDSTON:

14 Q Now isn't it true there are
15 instances of zero viewing and not just for
16 quote unquote small shows or small stations,
17 but even big stations as well, is it not true
18 that for instance WGN by far and away the
19 largest station that's distantly retransmitted
20 has what i would call anyway a high incidence
21 of zero viewing in excess of 50 percent.
22 Isn't that true?

Neal R. Gross & Co., Inc.
202-234-4433

1 A I don't know the specifics for GN
2 and there are two reasons why that could
3 happen. But first off, keep in mind as we've
4 tried to stress broadcast stations at this
5 point in time would almost be happy with one
6 and two rating levels. You're dealing with
7 small percentages and for cable viewing you're
8 dealing with tenths of a percent as your
9 typical rating level. So that even well
10 distributed, well viewed networks are likely
11 in the grand scheme of things to have
12 relatively low viewing levels at any given
13 point in time.

14 Q Isn't it true, you mentioned
15 earlier you said well, it's not like we have
16 80 percent of programs with zero viewing, do
17 you have an estimate as to what the percentage
18 of programs are out there that have zero
19 viewing instances?

20 A No, I do not.

21 MR. BOYDSTON: Your Honor, I'd
22 like to mark Exhibit 504. It's a one-page

Neal R. Gross & Co., Inc.
202-234-4433

1 document. They are sticking together.

2 (Whereupon, the above-referred to
3 document was marked as Exhibit 504
4 for identification.)

5 BY MR. BOYDSTON:

6 Q Now this is a document which I've
7 only marked at the moment. It hasn't been
8 admitted and I haven't moved for it to be
9 admitted just yet. I'll represent to you this
10 is a document that has been generated by IPG
11 based upon analysis of the raw Nielsen diary
12 data and it reflects here that for the Year
13 2000 out of 8,173 unique programs we have
14 incidents of aggregate zero viewing of 42.65
15 percent. Do you have any reason to believe
16 that that would be inaccurate?

17 A I have no reason to believe it is
18 accurate either. And that's not question it.
19 It's just simply I don't have the base
20 information to be able to say.

21 Q Okay.

22 JUDGE STRICKLER: Counsel, just so

Neal R. Gross & Co., Inc.
202-234-4433

1 you can clarify so I understand the questions
2 and the answers here. That final column,
3 percentage of programs with aggregate zero
4 viewing, does that mean as far as you're
5 representing percentage of programs with any
6 aggregate zero viewing or total aggregate zero
7 viewing?

8 MR. BOYDSTON: Any.

9 JUDGE STRICKLER: Thank you.

10 MR. BOYDSTON: Total is a story
11 for another day.

12 JUDGE STRICKLER: Fair enough.

13 BY MR. BOYDSTON:

14 Q Let me ask you to turn to Exhibit
15 8 in the document you have there in front of
16 you. I'm sorry, Your Honors, it's just the
17 next exhibit in that same document we were
18 looking at.

19 CHIEF JUDGE BARNETT: Exhibit 8 to
20 the Galaz rebuttal testimony to MPAA?

21 MR. BOYDSTON: And actually,
22 belatedly, I'd like to move admit Exhibit 7.

Neal R. Gross & Co., Inc.
202-234-4433

MR. OLANIRAN: Objection, Your Honor, on the same basis that I made before. Mr. Lindstrom cannot authenticate this document and while he answered questions about it, I think his answers were more in a general form, not specific to the document.

MR. BOYDSTON: The witness acknowledged that this appeared to be information that did come straight from the Nielsen raw data. That's the purpose for which it's being admitted.

MR. OLANIRAN: Your Honor, this information did not -- it may have come from the Nielsen data, but this is not information Nielsen prepared. The only information Nielsen provided with respect to the diary is the raw data. This is not the raw data. Nielsen does not calculate zero viewing instances and Mr. Lindstrom's testimony has been very consistent with that.

I think you can attempt to put this in with the witness that sponsored this,

but I'm quite sure that Mr. Nielsen did not prepare this document.

CHIEF JUDGE BARNETT: The objection is sustained. Exhibit 7 to the rebuttal testimony is rejected.

MR. BOYDSTON: Not admitted.

CHIEF JUDGE BARNETT: Not admitted.

(Laughter.)

MR. BOYDSTON: Thank you.

CHIEF JUDGE BARNETT: I know you'll make another stab at it, Mr. Boydston.

MR. BOYDSTON: I appreciate that. Thank you.

MR. HARRINGTON: Your Honor, if I could be heard for a second?

CHIEF JUDGE BARNETT: You may.

MR. HARRINGTON: I note we didn't state a position on this, but the fact is we've never received this document. We haven't received any of the proposed exhibits that IPG has exchanged regarding MPAA. And if

we're going to have a meaningful involvement, we would like to be provided with a copy of the exhibits that are going to be proposed for entry in this case.

MR. BOYDSTON: Your Honor, this is not the case against SDC. I'm not talking to an SDC witness.

CHIEF JUDGE BARNETT: Mr. Boydston, I thought we had made it clear that all documents were to be provided to all parties and so to the extent that you have not provided MPAA to Mr. Harrington or SDC documents to Mr. Olaniran, you need to do that.

MR. BOYDSTON: All right. I mean the only reason we haven't is as I said --

CHIEF JUDGE BARNETT: I understand your point, but you need to understand ours.

MR. BOYDSTON: Okay.

BY MR. BOYDSTON:

Q With regard to Exhibit 8, do you recognize this exhibit as containing

information from the raw Nielsen data?

A I recognize that it contains data that wouldn't have been there as well, given some of my perhaps speculation on the last one, I think I need to avoid this one. We didn't do data that was connected with the application of the program names.

Q Okay, are you referring to field three there?

A Yes, which seems to be a key component of the data set.

Q Is there anything else in this that you would add to that field three in your answer?

A I am not sure what the rest of the fields are either, but I do know that, in fact, the program name data we did not get involved with.

Q Okay, the field at the far right, do you have a recognition of what that is, based upon what the raw Nielsen data is?

A I'm not sure offhand. I could

1 speculate.

2 Q What's your speculation?

3 A Actually, I'm not completely sure.

4 CHIEF JUDGE BARNETT: We're not
5 going to ask witnesses to speculate.

6 MR. BOYDSTON: He said I could
7 speculate. That's why I followed up.

8 CHIEF JUDGE BARNETT: Could, but
9 he's not allowed to.

10 MR. BOYDSTON: Fair enough.

11 BY MR. BOYDSTON:

12 Q Let me ask you to look back at
13 Exhibit 7 and do you see stations on the left
14 hand side of that document that based upon
15 your experience you would believe were
16 probably independent stations as opposed to
17 network stations?

18 A Yes.

19 Q And do you see that those
20 independent stations and I realize that this
21 is something that did not come from Nielsen,
22 but they show an incidence of zero viewing on

Neal R. Gross & Co., Inc.
202-234-4433

1 the far right hand corner, at least as
2 represented in this document?

3 A Yes.

4 Q Do you have any reason to believe
5 that there would be a difference between zero
6 viewing of an independent station and a
7 network station?

8 A There could be differences,
9 depending on how this was calculated.

10 Q Just based upon what you see here,
11 do you see that or do you believe that
12 network-affiliated stations have a higher
13 incidence of zero viewing than network
14 stations?

15 A I'm not familiar with all the
16 stations. I couldn't divvy them up in my
17 mind.

18 Q Okay, let me ask the question just
19 a little different way. In general, is it
20 your belief that network-affiliated stations
21 would have a different, fundamentally
22 different zero viewing incidents than network

Neal R. Gross & Co., Inc.
202-234-4433

1 stations?

2 A The main reason why there would be
3 a difference depending on how the calculations
4 were done or whether or not the quarter hours
5 with compensable programming were handled
6 before the analysis was done or not, so that
7 the network feeds would have been potentially
8 stricken which would end up with a zero
9 viewing cell.

10 We didn't do the program names
11 associated with that so those instances
12 should, in fact, come up with zeroes. I don't
13 know whether they were within this analysis.

14 The second thing is is that, and
15 it's a very broad type of statement and so it
16 is going to vary piece by piece within this is
17 that network programs will often have higher
18 ratings which, in fact, may or may not lead to
19 differences in the zero viewing cells, but
20 it's difficult to say. I don't think there's
21 -- you could necessarily make too general a
22 statement on that.

Neal R. Gross & Co., Inc.
202-234-4433

1 Q I don't know if it's in front of
2 you there or not, but I think I can ask a
3 question and you can answer it without it in
4 front of you. If not, let me know. What I'm
5 referring to is your statement that you talked
6 about yesterday and you provided several
7 changes in your statement, as of yesterday, do
8 you recall that?

9 A I do.

10 Q And particularly on page six of
11 your testimony, you changed the references a
12 couple of times from the MPAA analysis, or
13 excuse me, the Nielsen custom analysis to Dr.
14 Gray's custom analysis. Do you recall that?

15 A Yes, I do.

16 Q When you refer to Dr. Gray's
17 custom analysis, what exactly is it you're
18 referring to?

19 A I'm referring to an analysis
20 that's downstream from the work that Nielsen
21 did. We produced quarter hours, estimates of
22 quarter hours of viewing for distant cable

Neal R. Gross & Co., Inc.
202-234-4433

1 households among individual stations on a
2 quarter hour basis. And down the line from
3 that point in time, program names were affixed
4 to it and the analysis was completed.

5 And so it was a case of saying in
6 this case the analysis piece would have been
7 further down the line from the work that we
8 were producing.

9 Q So if you could be more specific,
10 what was the work that Dr. Gray did that you
11 are encompassing in your phrase, "Dr. Gray's
12 analysis"?

13 MR. OLANIRAN: Objection, Your
14 Honor. I think Mr. Lindstrom is not qualified
15 to testify what Dr. Gray did. If he wants to
16 know what Dr. Gray did he can ask him.

17 MR. BOYDSTON: He's changed his
18 analysis to say that what he's talking about
19 is Dr. Gray's analysis which certainly implies
20 that he knows something about Dr. Gray's
21 analysis, otherwise why would he say it?

22 CHIEF JUDGE BARNETT: I'll allow

1 the question. He used the terminology in his
2 testimony.

3 THE WITNESS: The piece that the
4 adjustment had been made for was the notation
5 regarding two aspects of zero viewing, one of
6 which was taking out, in fact, the broadcast
7 network; viewing quarter hours that would not
8 have been compensable. We are producing
9 viewing data for all stations for all quarter
10 hours without tying to program name, so that
11 step within the process to take out
12 noncompensable quarter hours would have been
13 done further on and would have been part of --
14 included within Dr. Gray's analysis. And the
15 same with GN, where comparisons were necessary
16 in order to determine which quarter hours
17 should be included or not having to do with
18 the comparison of the national satellite feed
19 versus the local feed and where there are
20 differences.

21 BY MR. BOYDSTON:

22 Q So are you saying that after

1 Nielsen provided the raw data to Dr. Gray
2 which included things like noncompensable
3 programming, network programming, if you will,
4 that after that, Dr. Gray removed that
5 noncompensable programming from the data set
6 you received from Nielsen and then did
7 something with it?

8 A We provided our data to the MPAA
9 which was then gone on to Dr. Gray, but it is,
10 in fact, my understanding that that was done
11 in between Nielsen's work on the estimates of
12 the audience and Dr. Gray's final analysis.

13 Q And how do you know that?

14 A It is my understanding that that
15 is part of Dr. Gray's analysis.

16 Q What's the basis for that
17 understanding?

18 A I cannot speak with full expertise
19 on the details of Dr. Gray's analysis, so --

20 Q Well, do you know if it was Dr.
21 Gray who did that or some other person?

22 A I only know that it was done

1 further downstream from the work that we were
2 doing.

3 Q And how do you know that?

4 A Because we didn't do it.

5 Q Well, how do you know it was done
6 in the first place then?

7 A It is my understanding that it's
8 done. I couldn't sit and tell you the details
9 of how I know that.

10 Q Well, you say that you know it,
11 something must have made you know it?

12 A I would say that -- I may have
13 overstepped my statement in too strong a way.
14 And in fact, I would requalify that as saying
15 I, in fact, have -- I have no positive
16 confirmation to say one way or another that it
17 was done. I only can speak to the data set
18 that we provided which is again, the estimates
19 of the audience on a distant cable basis on a
20 station by station.

21 Q I'm sorry, I beg your pardon. The
22 data set you produced did include

1 noncompensable programming, correct?

2 A It would because we wouldn't have
3 gone through to identify the program level
4 data. It has to be done once the program
5 schedules are affixed.

6 Q And noncompensable programming
7 includes, for instance, network programming,
8 correct?

9 A I'm probably best not commenting
10 on that because I didn't get involved with
11 that aspect of it.

12 Q Well, are you aware as to whether
13 or not network programming is compensable in
14 these matters?

15 A I am aware, but not to the extent
16 of being able to answer on details on it. To
17 a certain extent, you could almost go into a
18 speculation mode. It doesn't affect what we
19 produced and as I said, I may have made a
20 stronger statement before than perhaps I
21 should have.

22 Q Now you said yesterday in your

Neal R. Gross & Co., Inc.
202-234-4433

1 testimony that zero viewing is a misnomer in
2 the sense that when Nielsen data shows zero
3 viewing Nielsen isn't really saying no one is
4 watching, correct?

5 A Other than for analysis purposes
6 where we're putting numeric fields in, Nielsen
7 doesn't show zero viewing.

8 Q But I think your point was and
9 forgive me if I'm wrong, but your words
10 yesterday I believe were just because you have
11 something that shows no viewing under the
12 Nielsen data, doesn't mean that no one is
13 actually watching at that time, correct? It
14 just means that the Nielsen method did not
15 pick that up?

16 A That the levels would likely have
17 been too small to have found reported viewing.
18 Yes.

19 Q And again, this may be asking you
20 to be overstepping your bounds and if not, I'm
21 sure you'll avoid that. Isn't it the case
22 that MPAA study accords no value to programs

Neal R. Gross & Co., Inc.
202-234-4433

1 that have a zero viewing incidence?

2 A That's not true.

3 Q And why is that not true?

4 A Once again, it's important to keep
5 in mind sampling in the way that it works so
6 that during any individual quarter hour you
7 may or may not find viewing in the same way
8 that for any given respondent it might be a
9 yes or a no in terms of have they viewed. You
10 would expect that to occur. But it's only
11 once you only add up all of the aggravated
12 viewing that, in fact, your estimate is
13 accurate.

14 And so it's a situation that it
15 really is necessary to add up the viewing
16 across time.

17 Q Yes, but to the extent that the
18 MPAA study accords no royalty rights or no
19 right to actually get paid royalties out of
20 this proceeding to a program that shows up
21 with a zero viewing on the Nielsen data, is it
22 not true that zero viewing in the Nielsen data

Neal R. Gross & Co., Inc.
202-234-4433

1 translates to no value in these proceedings?

2 MR. OLANIRAN: Objection, Your
3 Honor. Mr. Lindstrom is not testifying what
4 MPAA's distribution methodology or what MPAA's
5 methodology is in this proceeding. He's
6 testifying to what Nielsen produced to MPAA.

7 CHIEF JUDGE BARNETT: Sustained.
8 And let's keep our objections to the statement
9 of the legal basis for the objection, please,
10 not a narrative. Objection sustained.

11 BY MR. BOYDSTON:

12 Q Do you have an understanding of
13 how the MPAA study accords shares of these
14 royalty pools to individual program suppliers?

15 A To the extent that my knowledge
16 goes and it is again and a step further
17 downstream than what we do, but it examines
18 programs and examines programs across time and
19 across stations in a very aggravated way.

20 And under that scenario, instances
21 with multiple stations and multiple time
22 periods coming up with zero viewing are going

Neal R. Gross & Co., Inc.
202-234-4433

1 to be certainly the exception to that rule.
 2 It's why again you have to keep aggregating
 3 and a zero for a given quarter hour, as we
 4 keep going back to it, zero viewing for a
 5 given quarter hour doesn't mean anything. It
 6 is only in that aggregation. And to the best
 7 of my knowledge of what the MPAA does, I think
 8 it's a fair representation of the relative
 9 amount of viewing going to those programmings
 10 across times and station.

11 Q Do you think it's a fair and
 12 relative representation if the MPAA
 13 methodology accords no compensation whatsoever
 14 for a program that, in fact, does have
 15 viewership?

16 MR. OLANIRAN: Objection,
 17 relevance, Your Honor.

18 CHIEF JUDGE BARNETT: Sustained.

19 THE WITNESS: Can you rephrase
 20 that?

21 CHIEF JUDGE BARNETT: You don't
 22 have to answer.

1 THE WITNESS: I'm sorry, I thought
 2 you were saying go ahead with it.

3 CHIEF JUDGE BARNETT: I used to
 4 confuse those two all the time myself.

5 (Laughter.)

6 BY MR. BOYDSTON:

7 Q Would you as an expert normally
 8 provide relative error rates as part of your
 9 report?

10 A It's actually a difficult question
 11 to answer. It's something that will often be
 12 provided if it's asked for in terms of
 13 syndicated data. It's frequently done. In
 14 situations like this one, relative errors are
 15 exceedingly complicated because effectively
 16 every single program depending on how it's
 17 aggregated will have different relative
 18 errors. I don't know whether it pays to go
 19 into the reasons for that or whether you can
 20 accept that as what the situation is, but as
 21 a result, trying to calculate out relative
 22 errors on a study like this that will

1 subsequently be aggregated at a later point is
 2 exceedingly difficult and cumbersome. If we
 3 had a set of numbers that we did, we could
 4 produce it, something along these lines, very
 5 hard. And they will differ all over the place
 6 and need separate calculations for each.

7 JUDGE STRICKLER: Excuse me,
 8 counsel. Can you define that term formally,
 9 relative errors?

10 THE WITNESS: Relative error would
 11 be the relationship of the standard error to
 12 the number that's being measured. So if we
 13 produced a 10 rating, for example, and it had
 14 a standard error of 2.5 points, it would be a
 15 25 percent relative error. And so it's a
 16 gauge of how tight the fit will be. It's kind
 17 of a direct reflection of standard error.

18 The reason why it differs is that
 19 one of the key components in calculating
 20 either standard error or relative error over
 21 time is how much is coming from unique
 22 individuals. So it's not just the sample

1 size. It's whether there's a correlation of
 2 viewing between events. And so the net result
 3 is each program will have different
 4 correlations or each aggregation will have
 5 different correlations and different sample
 6 sizes, causing it to again be very difficult.

7 BY MR. BOYDSTON:

8 Q You've testified a number of times
 9 in these proceedings. I understand going back
 10 a significant amount of time.

11 MR. HARRINGTON: Asked and
 12 answered, Your Honor.

13 MR. BOYDSTON: There's a little
 14 more to it.

15 BY MR. BOYDSTON:

16 Q Have you ever testified on behalf
 17 of Settling Devotional Claimants?

18 A I actually don't recall. I've
 19 done so many of these. I don't remember as
 20 people have gone in and out of these
 21 situations. I'm also a little bit unclear on
 22 exactly what the question is asking.

Q Sorry about that. What I was asking is have you ever testified in these proceedings or proceedings before the CARP or before its predecessor the CRT on behalf of Settling Devotional Claimants prior to now?

A Again, I can't remember off the top of my head whether I have specifically done it. I have certainly been cross examined by the devotionals. I know that.

(Laughter.)

Q Have you testified on behalf of anyone other than the MPAA in these proceedings?

A Again, I don't recall. I have done work for other claimants. I do not recall whether I was specifically called for those studies independent of the work that I've done with the MPAA. But we are fundamentally Nielsen is a fence-sitter, although I'm testifying for the MPAA. I'm here to testify about what we did and we can and have done work for other claimant parties.

Neal R. Gross & Co., Inc.
202-234-4433

Q Nothing further.

CHIEF JUDGE BARNETT: Mr. Harrington?

MR. HARRINGTON: Yes, Your Honor, just one or two questions.

CROSS EXAMINATION

BY MR. HARRINGTON:

Q Mr. Lindstrom, in your experience reviewing viewing data, have you found that viewing is constant across a 24-hour day or does it change from quarter hour to quarter hour? Let's assume national aggregate numbers.

A Change in which way, if you could just --

Q So do the same number of people watch television generally, all programs at say six in the morning or six in the afternoon?

A No, it changes throughout the course of the day.

Q It does. And are -- how would you

Neal R. Gross & Co., Inc.
202-234-4433

-- would you say that viewing during the hours of say 2 a.m. or 6 a.m. are relatively low as compared to other hours during the day?

A They tend to be relatively low, yes.

Q And based upon your experience in doing this for many years, am I correct that starting at the hour of 2 a.m. viewing is quite low and then at some point say at about 5 o'clock it builds up again and that the lowest viewing level would be what, 2:30, 3:00 o'clock in the morning?

A It tends to be in that type of neighborhood, but I couldn't give you the specifics.

Q Okay, so if someone took the viewing levels nationally at 1:30 a.m. and drew a linear interpolation and reduced it each quarter hour until, or half hour, until 6:30 a.m., so that the lowest viewing levels are at 6 a.m., would that be a fair way to do that?

Neal R. Gross & Co., Inc.
202-234-4433

A I would tend not to do linear relationships in terms of television viewing overall.

Q Thank you very much. That's all I have.

CHIEF JUDGE BARNETT: Mr. Olaniran?

REDIRECT EXAMINATION

BY MR. OLANIRAN:

Q Good morning, Mr. Lindstrom. Greg Olaniran for MPAA. I just have a couple of very quick questions.

Just so we're clear, this zero viewing idea we're talking about, when you're looking at a particular station on a particular date at a particular quarter hour and the specific households that are viewing that station, is that your understanding of what the zero viewing instances are?

A They're instances of particular stations, particular households, particular days and particular quarter hours, yes.

Neal R. Gross & Co., Inc.
202-234-4433

Q And you spoke --

A And if I could add on, and particular weeks.

Q Okay.

A So that it's not an instance of Monday at 8 across all weeks. It's Monday at 8 on February 2nd.

Q Thank you. You spoke in terms of fragmentation as probably accounting for the difference between say the incidence of zero viewing in some prior years versus say when you compare those prior years to say the period from 2002 to 2003. What do you mean by fragmentation in the marketplace? Are you talking in terms of programming?

A It was mainly meant to be a reflection of saying that television usage for individual stations has declined over time and has declined considerably for individual viewing sources. And part of the reason for that HUT levels are tending to be about the same meaning the number of people using

Neal R. Gross & Co., Inc.
202-234-4433

television is about the same, but the individual stations have gone down. And the most likely scenario for that is simply there are more stations. Cable systems have more channels. There are more channels that are available. And so the viewing is getting divided up to a greater extent. And so a situation with more zero cells as one piece of what could cause that would be simply saying viewing is declining for individual stations overall, so it's not surprising it would occur here.

CHIEF JUDGE BARNETT: May I inquire?

MR. OLANIRAN: Oh, sure.

CHIEF JUDGE BARNETT: Mr. Lindstrom, is there any way that Nielsen measures Netflix streaming or Hulu or any of those other sources of TV light time?

THE WITNESS: We're doing that now. That's all part of the way that the measurement system has changed. It's actually

Neal R. Gross & Co., Inc.
202-234-4433

some of the streaming sources of video have been causing the biggest headaches in the business right now, but we have gotten to a point at this point where we're now beginning to include PC usage. We're beginning to include on-demand. It doesn't have to be viewed simultaneously. And our measuring services like Netflix and Hulu to be able to track. It's a very big component for the industry, but also very hard as you can imagine.

CHIEF JUDGE BARNETT: But for the period relevant to this case, there was no consideration of DVD usage? I guess that was the in technology at that point or videotapes or any other -- when the TV was on and the source of the signal was something other than cable or broadcast?

THE WITNESS: It would not be included. So it's not part of the overall television usage. If there were degrees of more DVD viewing, it would end up showing

Neal R. Gross & Co., Inc.
202-234-4433

declines in traditional television usage.

But those are not -- they're reflected in the numbers that we're producing, but they're not included them if that makes sense.

CHIEF JUDGE BARNETT: Okay.

THE WITNESS: They would impact, you'd see those impacts, but not specifically included.

CHIEF JUDGE BARNETT: Thank you.

BY MR. OLANIRAN:

Q Your general point seems to be that in addition to more stations, let's say, these additional media services are necessarily competing with broadcast stations and that could account for some of the lower numbers for the broadcast stations. Is that a fair statement?

A It's a fair statement that there's been a considerable degree of competition that has come on, you know, through the years and to the extent that it was occurring during the

Neal R. Gross & Co., Inc.
202-234-4433

1 period of this study, I couldn't say, but it
2 has, in fact, been an ongoing change within
3 the marketplace since probably the '80s.

4 Q Thank you. No further questions,
5 Your Honor.

6 JUDGE FEDER: Going back to Judge
7 Barnett's question, similarly, is there
8 anything in these data that reflect DVR usage,
9 delayed viewing of broadcast programming using
10 a DVR?

11 THE WITNESS: DVRs at that point
12 in time were very small and wouldn't have been
13 a significant player. We would have included
14 videotaping, if there was playback, but it
15 would only be included if it had occurred
16 during the week in question. Remember,
17 somebody is only keeping this diary for a
18 week's time. So effectively, there would be
19 some degree of taping that would occur that
20 would not have been in here. I don't want to
21 say that it was reflecting all of that. I
22 think it's probably a more accurate way to

Neal R. Gross & Co., Inc.
202-234-4433

1 think about it as being live viewing.

2 JUDGE FEDER: Thank you.

3 CHIEF JUDGE BARNETT: Do the
4 questions from the bench raise questions for
5 counsel?

6 MR. BOYDSTON: Yes, but I also
7 have a question to follow up on the redirect.

8 CHIEF JUDGE BARNETT: All right.

9 RECROSS EXAMINATION

10 BY MR. BOYDSTON:

11 Q Mr. Lindstrom, I wanted to ask you
12 about fragmentation which Mr. Olaniran asked
13 you about. To lay a foundation for that
14 though I need to ask a question. I've known
15 Nielsen to be around for as long as I know,
16 but why don't you give me a better answer or
17 better information than that. How long has
18 Nielsen been doing this -- been in this
19 business of TV ratings?

20 A It goes back into the '50s and
21 they've been in the market research business
22 before that.

Neal R. Gross & Co., Inc.
202-234-4433

1 Q Okay, and when in the 1950s,
2 that's a whole decade, but to the extent we
3 can collectivize it, from what I know there
4 were three national networks, correct, and
5 then there were independent stations around
6 the country. Is that a fair explanation of
7 the TV landscape at that time?

8 A I couldn't tell you the exact
9 number of networks. They've kind of come and
10 gone and gone in and out of business, but it
11 certainly has been a reasonable definition of
12 what the marketplace looked like many years
13 ago.

14 Q Okay, and my questions on this are
15 certainly questions for an expert because this
16 is something that I don't think anyone else
17 here perhaps knows and that's why I'm asking
18 you. In terms of fragmentation, fragmentation
19 was there much fragmentation from say the dawn
20 of the TV era in the '50s to the 1960s or was
21 that fairly constant, if you know?

22 A Actually, could you restate that?

Neal R. Gross & Co., Inc.
202-234-4433

1 I'm sorry.

2 Q Sure. Were the number of TV
3 stations in the United States, did they
4 increase appreciably between the 1950s and the
5 1960s? I'll make it more specific, say
6 between 1965 and 1969? Was there a
7 significant increase in stations?

8 A I couldn't tell you.

9 Q At some point was there a
10 significant increase in stations over the
11 station landscape from the 1950s?

12 A Again, I am not an expert on
13 historical television. I've got a pretty good
14 idea on what was going on from '78 when I
15 joined Nielsen on, but prior to that I
16 couldn't answer definitively.

17 Q Was there an increase in TV
18 stations from say 1978 to 1990 that was
19 noticeable or significant?

20 A There would have been an increase
21 both in terms of stations and cable sources of
22 programming.

Neal R. Gross & Co., Inc.
202-234-4433

Q Do you have an estimate as to what sort of percentage growth there was during that time period?

A I couldn't tell you.

Q How about the difference in the number of stations and cable systems or cable channels rather from when you started in 1978 and say 2000, was there an appreciable change or increase?

A There would be an appreciable change, but I couldn't dimension the size of it. Cable systems went from 20 channels being a big one to 100 channels being a small one. The distribution technologies and the programming to fill it has grown extremely rapidly.

Q And what I'm trying to get a handle on is when that growth occurred. Your testimony in response to Mr. Olaniran's question was there's been a huge increase in the number of stations and that's decreased viewership on them all, correct? That was

Neal R. Gross & Co., Inc.
202-234-4433

your testimony to Mr. Olaniran's question, correct?

A My answer to why you might find an increase in zero viewing was that there has been increases in fragmentation, but to the degree to be able to give specific growth numbers, I couldn't do offhand to say it occurred in 1988 or whatever the period of time was. It's just there has been a general flow from 1978 when I began working at Nielsen. There was three networks. The three network share was 90 and a program was canceled if it didn't have a 30 share. And nowadays if somebody got a 30 share, that would be a super event. And it has been a continuum based upon, as I said, ease of distribution, digital, as the technology simple growth in cable. Cable penetration has gone from 25 percent during that period of time up to 90, all of which leads to increases in channels. So it's not a clear cut case of going the number of broadcast stations has

Neal R. Gross & Co., Inc.
202-234-4433

increased. It's going at that point in time 25 percent of people had increases in channels because of cable and now it's become virtually ubiquitous.

So there's a lot of factors at play, but there's no question the average number of channels that people can receive has gone up and gone up considerably.

Q And to that point you used a particular metric. You said when you started out if a network program didn't get a 30 share, it might be canceled. How would you characterize that situation today? What's the -- I know it's a generalization, but how do you generalize that figure today? What does a network program have to get to avoid cancellation as a general matter?

A Again, it varies all over the place, but for a variety of reasons. It is substantially lower than that. It's in the teens at this point in time, can still be considered a healthy number.

Neal R. Gross & Co., Inc.
202-234-4433

Q My follow up to Judge Feder's question was how -- he asked about DVR viewing and I was curious with regard to the Nielsen meter, how does a Nielsen meter, does a Nielsen meter detect and take note of and record a DVR event?

A It does now. It didn't during the time in question in the early 2000s.

Q Thank you. Nothing further.

CHIEF JUDGE BARNETT: Mr. Harrington?

MR. HARRINGTON: Just one question?

CHIEF JUDGE BARNETT: You may.

RE CROSS EXAMINATION

BY MR. HARRINGTON:

Q Mr. Lindstrom, we've used a couple of different terms here. We talked about ratings and about shares and you talked about a 1 rating was good and now an 18 share is good. Could you explain for the record the difference between a rating point and share?

Neal R. Gross & Co., Inc.
202-234-4433

1 A Sure. A rating is a percentage of
2 a universe that was watching something, so
3 let's say that there's 100 million households
4 in the United States as a very rough number.
5 If 10 million were watching a particular
6 programming during the average minute, it
7 would be 10 million divided by 100 million or
8 10 percent. That's a 10 rating. It's the
9 percentage of the universe that would be
10 viewing it.

11 A share is really looked at -- and
12 that's an absolute level. A share is a
13 relative one in order to see how you're doing
14 competitively. So taking that same example,
15 if the percentage of people which is the HUT
16 level, Households Using Television, I
17 shouldn't say percentage of people, but
18 percentage of households, was 50, 50 percent
19 of them were viewing during the period in
20 question, and you had 10 percent that were
21 tuned to your channel, it's 10 divided by 50
22 or 20 share. So in that scenario, you would

Neal R. Gross & Co., Inc.
202-234-4433

1 have a 10 rating and a 20 share.

2 Q Thank you.

3 CHIEF JUDGE BARNETT: Thank you,
4 Mr. Lindstrom. You may be excused.

5 THE WITNESS: Thank you.

6 (The witness was excused.)

7 CHIEF JUDGE BARNETT: Mr.

8 Olaniran.

9 MR. OLANIRAN: We will call Dr.
10 Jeffrey Gray.

11 WHEREUPON,

12 DR. JEFFREY GRAY

13 WAS CALLED FOR EXAMINATION BY COUNSEL FOR THE
14 MOTION PICTURE ASSOCIATION OF AMERICA AND,
15 HAVING FIRST BEEN DULY SWORN, WAS EXAMINED AND
16 TESTIFIED AS FOLLOWS:

17 MR. OLANIRAN: May I proceed, Your
18 Honor?

19 CHIEF JUDGE BARNETT: Yes, you
20 may.

21 MR. OLANIRAN: Thank you.

22 DIRECT EXAMINATION

Neal R. Gross & Co., Inc.
202-234-4433

1 BY MR. OLANIRAN:

2 Q Good morning, Dr. Gray. My name
3 is Greg Olaniran and I'm counsel for MPAA.
4 Would you please state your name for the
5 record and spell it?

6 A Yes, it's Jeffrey Gray, J-E-F-F-R-
7 E-Y G-R-A-Y.

8 Q And what is your educational
9 background?

10 A I have a Ph.D. in Economics from
11 the University of Pennsylvania and also an
12 undergraduate degree in Economics from the
13 University of California at Santa Cruz.

14 Q Where do you work?

15 A I work at Deloitte Financial
16 Advisory Services, LLP.

17 Q And what position do you currently
18 hold at Deloitte?

19 A I'm a principal and also the
20 national leader of their Economic and
21 Statistical Consulting Group.

22 Q And what are your responsibilities

Neal R. Gross & Co., Inc.
202-234-4433

1 in that position?

2 A Well, I have various
3 administrative responsibilities including
4 hiring into the group, setting compensation,
5 overseeing staffing levels, representing the
6 group in leadership functions and meetings.
7 But my primary responsibility really is client
8 service which is providing economic and
9 statistical consulting services to companies,
10 government agencies and sometimes indirectly
11 via law firms.

12 Q And where were you prior to
13 Deloitte?

14 A Well, prior -- I should say I
15 started at Deloitte in 2002, but then from
16 2006 in the summer through 2009, I left
17 Deloitte and was with Huron Consulting Group.

18 Q Prior to your first stint at
19 Deloitte, would you please provide with a
20 sense of your work experience at all of the
21 other places, where you worked over the last
22 several years?

Neal R. Gross & Co., Inc.
202-234-4433

1 A Sure. I worked for both large and
2 small economic consulting shops. I also spent
3 a year at the White House, the President's
4 Council of Economic Advisors.

5 Q And describe briefly the subject
6 matter of your specialty.

7 A Sure. In general, I focus on
8 understanding and studying markets, how prices
9 and quantities are determined in those markets
10 and how market imperfections or distortions
11 affect those equilibrium prices and
12 quantities. I would say my specialty is
13 analyzing data associated with those markets,
14 often large amounts of data, to draw
15 conclusions regarding those alleged or actual
16 imperfections and distortions.

17 Q And what are the specific fields
18 in terms of -- how would you define those
19 different fields?

20 A I would say economics, statistics,
21 and econometrics.

22 Q What is the distinction among --

1 how do you distinguish between -- among those
2 three fields?

3 A Good question. I would say
4 economics is the study of the sort of
5 production, allocation, and consumption of
6 goods and services, very broadly speaking.

7 Statistics, also broadly speaking,
8 is the study of the collection, analysis, and
9 the interpretation of data.

10 Econometrics is the intersection
11 of those two disciplines. It's the
12 application of statistical methods to economic
13 data to provide content to economic
14 relationships being studied.

15 Q And how long have you worked in
16 these fields?

17 A Approximately 25 years.

18 Q Have you taught also in these
19 fields?

20 A Yes.

21 Q And where did you teach?

22 A I taught at the University of

1 Illinois at Urbana-Champaign. I was a tenured
2 track assistant professor there. I also
3 taught while I was a grad student at the
4 University of Pennsylvania. I taught at the
5 University of Pennsylvania as well as co-
6 taught a course in the Business School there
7 called Wharton.

8 Q Are you published?

9 A Yes.

10 Q In what areas?

11 A I've been published in peer-
12 reviewed journals in the sort of general area
13 applied microeconomics with a special focus on
14 labor economics.

15 Q And have you served as a referee
16 for peer-reviewed journals?

17 A Yes. Throughout my career, I've
18 been asked to serve as a referee to judge the
19 appropriate use of economics and statistics
20 when people submit publications.

21 Q Do you have any experience in
22 media and entertainment industry?

1 A Some consulting experience. I've
2 done work on behalf of large metropolitan
3 newspapers. I was also engaged by outside
4 counsel for a performance rights organization,
5 also known as a PRO to assess the economic
6 value of a blanket license, giving certain
7 companies the right to perform music from the
8 PRO's library on their internet sites.

9 Q Have you done any work related to
10 cable television industry?

11 A Yes. I've also been engaged by
12 outside counsels for CSOs who have been
13 involved in I guess either negotiations and/or
14 contract disputes with basic cable channels
15 concerning the programming on those channels,
16 how that programming has changed over time,
17 and the associated viewership of those
18 programs and channels.

19 Q And have you previously testified
20 either before this body, the CARP, the CRT, or
21 any other Court or regulatory body?

22 A I have not testified before this

body, but I've testified before both international and Federal Courts in the United States, both written and orally.

MR. OLANIRAN: Your Honor, at this point, I'd like to offer Dr. Gray as an expert in the field of economics, statistics, and econometrics?

MR. BOYDSTON: No objection.

MR. HARRINGTON: No objection.

CHIEF JUDGE BARNETT: Dr. Gray is so qualified.

BY MR. OLANIRAN:

Q Dr. Gray, what were you asked to do in this proceeding?

A Yes, I was asked to propose an allocation methodology of the cable royalty funds attributable to the program suppliers category between 2000 and 2003, between IPG represented claimants and MPAA represented claimants.

I was also asked to review the methodology proposed by IPG and its associated

Neal R. Gross & Co., Inc.
202-234-4433

allocations to see if it was reliable.

Q And did you prepare written reports as to your findings?

A Yes, I did.

MR. OLANIRAN: May I approach the witness, Your Honor?

CHIEF JUDGE BARNETT: You may.

BY MR. OLANIRAN:

Q Dr. Gray, I have just handed you MPAA Exhibits premarked as MPAA Exhibits 364 and 365. Would you please identify those two exhibits?

(Whereupon, the above-referred to documents were marked as Exhibits 364 and 365 for identification.)

A Yes, Exhibit 364 is the testimony of Jeffrey S. Gray, Ph.D., amended August 20, 2012. Exhibit 365 is the rebuttal testimony of Jeffrey S. Gray, Ph.D., May 15, 2013.

Q Did you prepare these exhibits yourself?

A Yes, I did. Either I prepared

Neal R. Gross & Co., Inc.
202-234-4433

them or directly supervised some of the appendices.

Q And do you have any corrections or additions to either of the exhibits?

A Yes, I have two, on two pages of the amended testimony. The first is on page 15, the first full paragraph, it says during the four, quote, sweeps, unquote, months. This refers to the Nielsen diary data. There were actually six months data in the Nielsen diary data. And so for expositional purposes I'd change the four to a six.

And on the very next page, page 16, two similar changes and this is a carry-over from my first testimony before I had information concern IPG claimants. It's the second line. It starts off in the first line, "for each time slot in the Nielsen diary data I merged program title information for MPAA-represented programs." It should now read "for MPAA and IPG-represented programs."

And similarly a little bit further

Neal R. Gross & Co., Inc.
202-234-4433

down in the paragraph where I say "MPAA programs, I was provided Tribune data that included information on MPAA program titles." It should say "MPAA and IPG proceeding titles by station." Those are the only corrections.

Q And with those corrections, do you declare MPAA Exhibits 364 and 365 to be true and correct and of your personal knowledge?

A To the best of my ability, yes.

MR. OLANIRAN: Move for admission of -- Your Honor, I move for admission of MPAA 364 and 365.

MR. BOYDSTON: No objection.

MR. HARRINGTON: No objection.

CHIEF JUDGE BARNETT: 364 and 365 are admitted.

(The documents, having been marked previously for identification as 364 and 365, were received in evidence.)

BY MR. OLANIRAN:

Q Dr. Gray, again, what do you

Neal R. Gross & Co., Inc.
202-234-4433

1 understand to be the purpose of this
2 proceeding?

3 A It's to determine an allocation of
4 the cable royalty funds from 2000 through 2003
5 for the program supplier categories between
6 MPAA and IPG representing claimants.

7 Q And what is your source of the
8 understanding, I mean what is your
9 understanding of the source of these
10 royalties?

11 A I understand the royalty funds
12 follow from the Section 11 of the compulsory
13 license established by Section 11, I'm sorry
14 111, of the 1976 Copyright Act.

15 Q And in general, who are the
16 beneficiaries of these royalties?

17 A Well, the copyright owners of the
18 compensable programs.

19 Q What did you do to prepare for the
20 task that you were charged with?

21 A Well, in general, I reviewed a lot
22 of testimony. To do the actual analysis, I

Neal R. Gross & Co., Inc.
202-234-4433

1 reviewed a lot of prior decisions for many
2 years. I reviewed prior testimony, both
3 written and orally in prior testimony, and
4 reviewed some various textbooks and such.

5 Q And did you reach any conclusions
6 as to what standard the Judges should employ
7 in allocating royalties between MPAA-
8 represented claimants and IPG-represented
9 claimants?

10 A Yes, the relative market value.

11 Q And from an economist's
12 perspective, what is your definition of market
13 value and you can tell me what you mean by
14 relative market value?

15 A Sure. Market value from an
16 economist's perspective is the price at which
17 an asset changes hands between a willing buyer
18 and a willing seller, neither being under any
19 compulsion to trade and both having full
20 information. Relative market value then would
21 be quite frankly the relative market value,
22 the market value of two assets compared to one

Neal R. Gross & Co., Inc.
202-234-4433

1 another.

2 Q And what, in your opinion, would
3 be an appropriate measure of relative market
4 value in the context of this Phase II
5 proceeding?

6 A For the Phase II proceedings
7 program viewership provides a reasonable and
8 directly measurable measure of relative market
9 value.

10 Q And why is that?

11 A Well, first and foremost, in these
12 proceedings, we're dealing with relatively
13 homogenous programming, both IPG and MPAA have
14 syndicated programming, movies, and specials.
15 So to determine the -- albeit MPAA has quite
16 a bit more of it, but to determine the
17 relative market value what's going to be
18 important from the CSO's perspective
19 ultimately is going to be the underlying
20 subscriber demand of these homogeneous
21 products which is best reflected by the
22 relative viewing.

Neal R. Gross & Co., Inc.
202-234-4433

1 Q What's CSO just for the record?

2 A I'm sorry, cable system operator.

3 Q Thank you.

4 A But secondly, I should also say I
5 did check statistically whether or not IPG's
6 programming mix somehow led to either a slower
7 or faster growth in the subscribers for CSOs
8 and with the data that I had available, I did
9 not find a statistically-significant
10 relationship. So for those two reasons, it
11 seems the relative program viewership provides
12 a very, again, measurable and reasonable
13 measure of relative market value.

14 Q So you did go on to perform an
15 analysis of program viewership?

16 A Yes, I did.

17 Q And describe generally what steps
18 you undertook in doing that analysis?

19 A Well, first, it was -- I should
20 take a step back and talk about the five data
21 sources I relied upon. The first step, which
22 is a big step is combining five data sets. At

Neal R. Gross & Co., Inc.
202-234-4433

1 the first data source is data from the Data
2 Cable Corporation or CDC data. The CDC data
3 is information concerning the -- from all CSOs
4 who, in the United States, who distantly
5 retransmit signals of information on the
6 signals they distantly retransmit as well as
7 the total number of distant subscribers of
8 those signals. So that's the first data
9 source, the CDC data.

10 From the CDC data, two samples are
11 drawn. And these will generate two additional
12 data sources. The first sample was designed
13 by Marsha Kessler of MPAA and she provided
14 that to Nielsen who generated and provided the
15 Nielsen diary data which then contains
16 information on distant viewing for those
17 particular stations during sweeps months. So
18 this is 6 months a year, 24 hours a day, 7
19 days a week.

20 The second sample from the CDC
21 data I designed which was a random sample, a
22 representative sample, designed to be

Neal R. Gross & Co., Inc.
202-234-4433

1 proportionate to the number of distance
2 subscribers, but it's representative. I
3 provided of approximately 120 stations per
4 year from 2000 through 2003, provided that
5 sample, that list of stations to Nielsen who
6 provided now a third data set which is the
7 Nielsen ratings data. So for those nationally
8 representative stations, it's information on
9 local ratings provided on a quarter hour basis
10 or 24 hours a day, 7 days a week, and
11 importantly, 12 months a year. So that's data
12 source number three.

13 Data source number four is going
14 to be the Tribune Media data, Tribune Media
15 Services. The Tribune data is essentially a
16 wealth of programming information for every
17 broadcast on those stations. That is the
18 stations in the Kessler sample and stations in
19 the Gray sample. The wealth of information
20 includes exactly when the broadcast started,
21 how long the broadcast was, the duration,
22 information on the type of broadcast it was,

Neal R. Gross & Co., Inc.
202-234-4433

1 information on the station, whether or not the
2 station was an affiliate, information on what
3 else? It could be if it was a movie, the
4 director of the movie, the actors, major
5 actors in it and so forth. That's data set
6 number four.

7 One more which is the Reznick
8 Group data analysis. And they provided two
9 lists. One was a list of MPAA compensable
10 programming, based upon start time, date and
11 station, and they provided the same for IPG,
12 start time, date and station.

13 And those five data sources now, I
14 combined together for my analysis.

15 MR. OLANIRAN: You have a
16 question?

17 JUDGE STRICKLER: Yes, thank you,
18 counsel.

19 Dr. Gray, you mentioned the random
20 sampling that you did of the 120 distantly
21 retransmitted stations. And you had
22 mentioned, I think it was in a footnote that

Neal R. Gross & Co., Inc.
202-234-4433

1 that was a stratified random sample. Can you
2 explain how you stratified this sample and why
3 you did that?

4 THE WITNESS: Sure. I stratified
5 it based upon the number of distant
6 subscribers, so created buckets. And the
7 reason why I did it is quite frankly I wanted
8 to make sure that the stations were drawn to
9 get a good representative of the population,
10 as well as to get, you know, a good number of
11 stations from each type -- good number of CSOs
12 for each type, that is CSOs who retransmit
13 small stations, small programs as well as the
14 stations -- and large.

15 JUDGE STRICKLER: If you had not
16 stratified would you have gotten more CSOs
17 that were of the smaller type?

18 THE WITNESS: Yes.

19 JUDGE STRICKLER: Thank you.

20 BY MR. OLANIRAN:

21 Q I just had one quick question
22 about the data set. As to program titles,

Neal R. Gross & Co., Inc.
202-234-4433

1 which data set did they come from? Did they
2 come from the Nielsen data set or did they
3 come from the Tribune data set?

4 A Program titles, yes, that's
5 amongst the wealth of the information in the
6 Tribune data set. There was no program title
7 information in the Nielsen data.

8 JUDGE STRICKLER: Excuse me,
9 counsel, one more question.

10 MR. OLANIRAN: Sure.

11 JUDGE STRICKLER: You also
12 mentioned among the various data sources was
13 Ms. Kessler's sample of stations and as far as
14 we understand it, her sampling was not a
15 random sample. It was purposeful sample. Do
16 you have any problems with using her sample of
17 stations in light of the fact that it wasn't
18 random?

19 THE WITNESS: I should say I have
20 concerns associated that I dealt with
21 empirically.

22 JUDGE STRICKLER: Let me ask you

1 first, what were the concerns?

2 THE WITNESS: The concerns is that
3 it was not random. And when you don't have a
4 random sample you can't make any inferences
5 concerning stations, for example, outside the
6 sample. And so actually at the outset I
7 should say, counsel asked if I could use the
8 Kessler analysis for my analysis at large and
9 I said I could not for that reason. So that's
10 the, I guess, main motivation for my random
11 sample.

12 You had a follow up?

13 JUDGE STRICKLER: No, I'm nodding
14 because I understand what you're saying.

15 THE WITNESS: Okay. And so what I
16 wind up doing is I'll talk about momentarily
17 is estimate the relationship between factors
18 in my random sample and the Kessler sample.
19 And the concern I wind up having, of course,
20 is that still the Kessler sample is focused on
21 larger CSOs. So the questions that I had is
22 to make sure that there's not something about

1 the relationship.

2 I'm getting sort of off my plan
3 description, but there's not something
4 different about the relationship between
5 distant viewing and local stations -- I'm
6 sorry, distant viewing and local ratings for
7 large stations and small stations. If there
8 is, then I'd start feeling queasy. So I made
9 sure to check that. But ultimately, all of my
10 calculations of viewing, program viewing is
11 done for the representative samples.

12 Kessler samples are just used to
13 make projections.

14 JUDGE STRICKLER: Could you have
15 eliminated your queasiness, to use your word,
16 simply by not using the Kessler sampling at
17 all and just gone with your own sample?

18 THE WITNESS: First, my queasiness
19 was quelled. But secondly, I needed
20 information on distant viewing. And that's
21 not available in the local ratings data.

22 JUDGE STRICKLER: You continued to

1 use the Kessler data and you think you
2 corrected for it empirically, even though that
3 was your own source of distant ratings?

4 THE WITNESS: Correct. Yes,
5 distant viewing, yes, correct.

6 JUDGE STRICKLER: Distant viewing
7 and therefore distant rating?

8 THE WITNESS: Correct, yes, agree.
9 But in order to get distant rating, I had to
10 combine that with the CDC data, but yes, Your
11 Honor.

12 JUDGE STRICKLER: Thank you.
13 Please proceed, counsel.

14 JUDGE FEDER: Counsel, if I may?
15 Earlier in your testimony, Dr. Gray, you spoke
16 of the programs in this category being fairly
17 homogenous. Could you explain that a little
18 bit?

19 In particular, because we have
20 testimony that there's really a broad range of
21 different types of programs in this category
22 from game shows to motion pictures to

1 situation comedies, etcetera. And what the
2 implication is of the content being relatively
3 homogenous as you describe it.

4 THE WITNESS: Very good question.
5 One is I think the program types and you're
6 right, there are a variety of program types.
7 It's those that wind up being critically
8 important in understanding distant viewing
9 because distant viewing varies by program type
10 quite substantially.

11 So what I meant by homogeneity is
12 from a CSO's perspective in terms of
13 attracting and retaining customers, from a
14 Phase 1 perspective it makes sense that they
15 would want an eclectic group of sports
16 programming and program suppliers'
17 programming, devotional, etcetera. But once
18 they have sort of a mix of program supplier
19 categories, it makes sense to me as an
20 economist that they care more about okay, who
21 -- who is watching it, therefore that shows me
22 how valuable it is.

Neal R. Gross & Co., Inc.
202-234-4433

1 And ultimately, I take care of the
2 who's watching it in terms of the type of
3 programming. So if it's some show like
4 actually instructional program supplier
5 programming, winds up having very low ratings
6 and viewership whereas movies has relatively
7 higher, I take into consideration both those
8 factors when estimating distant viewing. So
9 ultimately they will -- I take into account
10 that they care about distant viewing as a
11 measure.

12 Is that somewhat circular? Does
13 that answer your question?

14 JUDGE FEDER: It is approaching
15 that. One other question that I have is when
16 you're talking about viewing, to what extent
17 are factors like displacement relevant? If
18 you have essentially the viewing public going
19 after two very similar shows on a CSO system
20 and essentially you're kind of dividing up
21 that same viewing audience?

22 THE WITNESS: Right, displacement.

Neal R. Gross & Co., Inc.
202-234-4433

1 A new program will come and might get similar
2 ratings or viewing to that program that it
3 displaced and so that perhaps put a little bit
4 noise around quote unquote true value, but
5 then you would expect if it's a program of
6 lesser quality or popularity, you'd expect the
7 viewership to decrease over time so that our
8 measurement of viewership for that new
9 program, relatively to the displaced one
10 should -- will approach its true measured
11 value over time.

12 JUDGE FEDER: Thank you.

13 BY MR. OLANIRAN:

14 Q Dr. Gray, let's talk about
15 specifically about the analysis that you did
16 with respect to viewership. What
17 methodological approach did you take with
18 respect your viewing analysis?

19 CHIEF JUDGE BARNETT: Mr.
20 Olaniran, it sounds like we might be changing
21 gears right here and this might be a good time
22 for us to take our morning recess, so we will

Neal R. Gross & Co., Inc.
202-234-4433

1 do that.

2 MR. OLANIRAN: Sounds good, Your
3 Honor.

4 CHIEF JUDGE BARNETT: Fifteen
5 minutes.

6 (Whereupon, the proceedings in the
7 went off the record at 10:40 a.m. and went
8 back on the record at 11:04 a.m.)

9 CHIEF JUDGE BARNETT: Please be
10 seated.

11 Apologies our recess lasted a bit
12 longer than we planned. Judge Strickler was
13 cheating at hopscotch.

14 (Laughter.)

15 Mr. Olaniran?

16 MR. OLANIRAN: Thank you, Your
17 Honor.

18 CHIEF JUDGE BARNETT: And we can
19 run a little longer into the noon hour to make
20 up.

21 MR. OLANIRAN: I do appreciate the
22 extra time. After all, Dr. Gray is an

Neal R. Gross & Co., Inc.
202-234-4433

1 econometrician, so I'm not sure how much fun
2 it is to listen to him.

3 BY MR. OLANIRAN:

4 Q Dr. Gray, just before we took the
5 break, we were about to get into the specifics
6 of the viewership analysis that you undertook.
7 And I think I had asked you about a
8 methodological approach that you took towards
9 the analysis.

10 A Yes.

11 Q What was your methodological
12 approach to viewership analysis?

13 A It was regression analysis.

14 Q Okay. And let's start with the
15 fundamentals. What is a regression analysis?

16 A Well, regression analysis is
17 actually a family of statistical tools that
18 are used to calculate the relationship among
19 variables. It calculates how each of a set of
20 independent factors affects the outcome
21 variable of interest, sometimes called the
22 dependent variable.

Neal R. Gross & Co., Inc.
202-234-4433

1 So it's used to predict expected
2 value of an outcome variable given certain
3 levels of these input factors.

4 Q Okay. And is this a tool that is
5 commonly used in statistics and econometrics?

6 A Oh, yes. It's commonly used,
7 widely accepted over 300 years now. It dates
8 back to Gauss.

9 Q And why is a regression analysis
10 appropriate for your viewership analysis?

11 A Well, regression analysis is used
12 to predict the value of a variable, so
13 economists use it to predict the value of a
14 variable when it's unknown. That's what we
15 have in this case with respect to distant
16 viewing in many instances.

17 For the non-sweeps periods, which
18 is six months a year, while we have lots of
19 information, we don't have -- concerning
20 programming, we don't have any information
21 concerning distant viewing of that programming
22 from the Nielsen diary data.

Neal R. Gross & Co., Inc.
202-234-4433

1 Actually, also, during the sweeps
2 months, for certain stations, for programming
3 on those stations, we don't have information
4 regarding viewing. Specifically, stations
5 that were in my random sample, but not in the
6 sort of Kessler diary data sample, have
7 information about the programming but not
8 distant viewing.

9 So for those two sort of classes
10 of time and stations, we will use regression
11 analysis to predict what distant viewing is.
12 And there is actually a third set, which is
13 subtle but a very powerful advantage of
14 regression analysis. Even for those
15 programmings -- programs where we know or we
16 have information on distant viewing from the
17 Nielsen diary data, that tends to be based
18 upon relatively small samples.

19 But with regression analysis, what
20 we are able to do is use all of this Nielsen
21 diary data in its aggregate and calculate what
22 distant viewing is expected to be based upon

Neal R. Gross & Co., Inc.
202-234-4433

1 this large amount of data. And so even in
2 those instances where we have sort of diary
3 data on distant viewing, we can predict what
4 distant viewing is likely to be based upon the
5 regression analysis.

6 So it is a wonderfully powerful
7 and useful tool in this instance. And after
8 it we have predictions for distant viewing for
9 every single program, actually on a quarter-
10 hour basis, for seven days a week, 24 hours a
11 day, 12 months a year.

12 Q Okay. And you had identified five
13 data sets a moment ago. Could you describe
14 procedurally how you arrived -- and taking us
15 through the use of the data sets, performing
16 the analysis, and your end result. How did
17 you use the data sets? What was the process?

18 A Sure. Well, the first thing I did
19 -- and this was a long while ago -- is I
20 wanted to establish that there was a
21 statistically significant relationship between
22 local ratings and distant viewing.

Neal R. Gross & Co., Inc.
202-234-4433

Q And why did you do that?

A Well, ultimately I did that because we did not have information on distant viewing, as I said, for half the year, and even during sweeps periods for many stations. So my goal ultimately was to predict what distant viewing is expected to be based upon local ratings and other information, but I wanted to establish that that relationship did indeed exist.

Q Did you find the relationship to exist?

A I did, but the -- and the way I did it is I combined sort of three data sets, three of the five that I just mentioned. So the local ratings data, and based upon my random sample; the diary data based upon the Kessler sample; and then also the CDC data with information concerning the number of distant subscribers.

So those three data sets combined sort of on a quarter-hour basis yields

Neal R. Gross & Co., Inc.
202-234-4433

approximately 70 stations per year that are in common. In the year 2000, a little less than 70; in the years 2001 through 2003, more than 70. But on average, a little more than 70 per year.

So for those stations and those programming -- I'm sorry -- I have about 1.6, or more than 1.6 million quarter-hour observations of programming, or I have local ratings, distant subscribers, and distant viewing.

So I looked at the relationship between distant viewing and local ratings, holding constant the number of distant subscribers. Mathematically, that is really looking at distant ratings and local ratings. And when I looked at that relationship, I found a positive and strong statistically significant relationship between distant viewing and local ratings.

Q Okay. We'll get back to that in a second, but I just wanted to be clear, when

Neal R. Gross & Co., Inc.
202-234-4433

you referred to 70 stations, the 70-station analysis was just for the correlation, not the ultimate allocation, correct?

A That's correct.

Q Okay. And so after you undertook the correlation analysis, what was the next step in your process?

A Well, the next step is to build the full econometric model, and that's combined in the two additional data sets that I described before, the Tribune data -- and also I guess the Reznick analysis of the Tribune data.

So when I combine all five data sets, what I have is information on distant viewing, local ratings, number of distant subscribers, program type, the quarter-hour of the day that the broadcast took place, station affiliation, and other factors that are mentioned in my testimony.

And so then I estimated the mathematical relationship between distant

Neal R. Gross & Co., Inc.
202-234-4433

viewing in those factors I just mentioned. And then, after that established that mathematical relationship based upon 1.6 million observations. I predicted it out to all of the other observations in the entire sample, so that I wound up having information on predicted distant viewing for every single quarter-hour, for every single program, 24 hours a day, seven days a week, 12 months a year, for all four years.

Q And that then became the basis for the shares that you proposed for allocation between MPAA-represented claimants and IPG-represented claimants?

A Yes. So that will be for the 120 randomly selected stations I have valid programming -- program viewing measures. Add those all up for the MPAA-represented titles, add them all up for the IPG-represented titles, and calculated the ratio to get program viewing, and then, therefore, recommended royalty allocation.

Neal R. Gross & Co., Inc.
202-234-4433

Q It's for 365 days, 24/7?

A 365/24/7, 120 randomly selected stations. Yes, sir.

Q Now, after completing your regression analysis, are there any tools -- strike that. Are there any tools that economists or econometricians use to test, essentially, the robustness, if you will, of your analytical approach?

A Well, regressions often are associated with various statistical tests to check their -- you know, their specification in terms of, you know, the goodness-of-fit test, for example, in terms of the t-statistics or z-statistics, depending on the specification, testing the statistical significance of each independent variable.

If I use too much jargon, wave your hand or just let me see your glossed eyes. I apologize. But those tests are continued in the log files that I turned over to IPG. But in addition to that, there were

Neal R. Gross & Co., Inc.
202-234-4433

a whole host of different regressions I ran, quite frankly, to see how robust the results were to changing things like excluding certain stations and/or changing specification.

And ultimately -- Judge Strickler asked earlier about the Kessler sample, so one set of tests that I did is I sort of used permutations of the Kessler sample to rely upon it, so just use, for example, the lower quartile of Kessler's stations in terms of the number of distant subscribers and rerun the results to see how the allocations would change. I did that with upper quartile, middle quartile, et cetera.

The one thing that stuck out was WGN. WGN was just, quite frankly, a little oddball in terms of the relationship between the number of distant viewers and local ratings. So, as a result, I wound up running two separate regressions, one for WGN and one for every other distantly retransmitted station.

Neal R. Gross & Co., Inc.
202-234-4433

And then, within each of these distantly retransmitted stations, again, the estimates were robust across the different quartiles. And that gave me sort of comfort, if you will, that the Kessler non-random sample might have been perturbing my results. I'm confident that it is not.

Q Okay. And with respect to the regression analysis as a whole, were you able to satisfy yourself that your regression analysis was robust enough?

A Yeah. I don't know if it's surprising, but there is -- it seems like there is nothing I could do to change the allocation shares by much other than move claimants around.

Q Okay. Did you make any other comparisons between -- of IPG-claimed programs and MPAA-claimed programs?

A Yes, I did.

Q And what were those?

A I also looked at the number of

Neal R. Gross & Co., Inc.
202-234-4433

unique transmissions of IPG and MPAA-represented programming, the number of retransmissions, as well as the total volume of those programs; that is, the number of minutes broadcast or retransmitted.

Q And were these analyses helpful in any way?

A Well, I suppose the CSOs' preferences are revealed by which stations they choose to digitally -- they choose to retransmit, excuse me, distantly, and how many they choose to retransmit distantly.

So those three measures provide I guess measures of what the CSOs are effectively purchasing, and so each of those provide a progressively better measure of relative value with program viewership, quite frankly, being better than those three.

Q Okay.

A But they do provide, if you will, a rough signpost of how good our measure is.

Q So you are not -- are you

Neal R. Gross & Co., Inc.
202-234-4433

1 suggesting that these additional analyses
2 could be looked at independent of the
3 regression results, or are they --

4 A No. They can certainly be looked
5 at as independent of regression results
6 because they are independent of the regression
7 results. But what they do is they provide
8 another measure of relative value, which I
9 think are inferior to those that came out of
10 the regression results.

11 But I think they are valuable
12 insofar as they provide I guess a benchmark
13 for what CSOs might care about.

14 Q And are the results of all of
15 these analyses reflected in your testimony,
16 your direct testimony?

17 A They are.

18 Q And could you please take us
19 through --

20 A They start on page 22 --

21 Q -- the analysis?

22 A -- of my direct.

Neal R. Gross & Co., Inc.
202-234-4433

1 Q Okay.

2 A Chart 1, Panel A just reports the
3 number of unique programs aired by
4 representation. The blue bar, which is the
5 taller bar if you are color-blind, is for
6 MPAA-represented programs, the number of
7 unique programs aired by year. And the
8 shorter green bar is IPG-claimed programming.
9 And you'll see roughly -- those were a 15 or
10 14 to one ratio by year between MPAA and IPG
11 unique programs.

12 The second panel then takes the
13 number of unique programs aired and says, "Oh,
14 yeah. How many times are they retransmitted?"
15 Presumably, the more valuable programs will be
16 retransmitted more often, all else equal, and
17 the ratio becomes even starker, between 570-
18 and 618- or 619,000 retransmissions for MPAA-
19 represented programming, and -- what is this
20 -- between about 8,000 and 21,000 for IPG-
21 claimed.

22 And, finally, on the next page,

Neal R. Gross & Co., Inc.
202-234-4433

1 Chart 2 shows the relative total volume of
2 compensable programming for MPAA and IPG-
3 claimed programming. I'm going to -- rather
4 than do the calculations in my head, but
5 you'll see about 23 or 24 million minutes per
6 year for this random sample compared to
7 between 245,000 and 720,000 for IPG, which
8 shows that MPAA has between 97 percent and 99
9 percent of total volume of programs supplied
10 or programming over the years 2000 through
11 2003.

12 And then, finally, I should say,
13 on page 26, Chart 3, shows the viewership
14 shares that I calculated for my direct
15 testimony. I did update these for my rebuttal
16 testimony, updated slightly. But for the
17 direct testimony you will see between 2001 and
18 2003 viewership share for MPAA programs ranges
19 from 98.4 percent up to 99.7 percent.

20 Q Okay. Thank you, Dr. Gray. I'm
21 now going to turn to your rebuttal testimony,
22 which I believe is MPAA Exhibit 3665. And is

Neal R. Gross & Co., Inc.
202-234-4433

1 it fair to say that your rebuttal testimony
2 concerns the allocation methodology proposed
3 by Mr. Galaz, correct?

4 A That is correct.

5 Q Okay. And what general conclusion
6 did you reach with regard to the Galaz
7 methodology?

8 A I would say three general
9 conclusions. One is that it is flawed and
10 unreliable, both conceptually and in its
11 application. Second is that for those flaws
12 or errors that can be fixed, each and every
13 one, once corrected, leads to a lower IPG
14 share according to his metric of relative
15 value.

16 And then, third, based upon my
17 review of his direct testimony, my methodology
18 and calculations do not change. The only
19 change to my proposed royalty allocation share
20 results from CRGs dismissing certain claimants
21 in certain years by IPG, as well as certain
22 IPG-claimed -- claimants rejecting that

Neal R. Gross & Co., Inc.
202-234-4433

1 representation.

2 Q Okay. Please describe, if you
3 will, what your understanding is of the Galaz
4 methodology.

5 A Yeah. The Galaz methodology is --
6 of relative value is essentially a relative
7 viewership measure, and I'll try to walk you
8 through why that is the case. Relative value
9 measures the product of three values. The
10 first is a time period weight factor. These
11 are his words. The second is a station weight
12 factor, and the third is program length.

13 The first, the time period weight
14 factor, is essentially a viewership index. It
15 represents the percentage of viewership on
16 average that takes -- percentage of daily
17 viewership on average that takes place during
18 certain day parts.

19 The second one, the station weight
20 factor, is the number of distant subscribers
21 of that station. There's a second one, too,
22 I can talk about in a moment. But if you

Neal R. Gross & Co., Inc.
202-234-4433

1 multiply those two together, so you have the
2 index for viewership during the day, and then
3 the number of people potentially receiving
4 that signal, you have a viewership, albeit
5 imprecisely measured, but you have a
6 viewership prediction.

7 The third of program length just
8 says a program that is 60 minutes long will
9 have twice as many viewers on average than one
10 that is 30 minutes long on a permanent basis.
11 So taken together, is a relative value
12 measure, is essentially a relative viewership
13 measure.

14 Q Okay. And why do you opine that
15 the Galaz methodology is flawed?

16 A Well, ultimately conceptually
17 flawed because it is unnecessarily imprecise
18 in terms of measuring relative viewership. So
19 as an example, if -- he will restrict programs
20 that might have very different levels of
21 popularity.

22 But if they air at the same time,

Neal R. Gross & Co., Inc.
202-234-4433

1 on the same station, on different days,
2 obviously, but according to his methodology,
3 by definition, they will have the same value
4 on a permanent basis, even if they have very
5 different actual viewership, very different
6 program type, as Judge Feder pointed out
7 earlier.

8 And so these things should take --
9 should be taken into account when predicting
10 viewership and/or measuring value. That is an
11 important flaw.

12 Perhaps rather than go into much
13 detail, I will show you an example or two that
14 is in my rebuttal testimony that might drive
15 home the point. Let me actually skip Table 1.
16 It's there, too. But Table 2, which is on
17 page 8 of my rebuttal testimony.

18 And if you look at the last two
19 rows in Table 2 -- start with those -- a
20 couple of cartoons. One is called Pokemon;
21 one is called Dragon Ball Z. They both -- on
22 different days they were broadcasting

Neal R. Gross & Co., Inc.
202-234-4433

1 retransmitted, but they both aired at 4:30 in
2 the afternoon, both by the station WPIX.
3 Actually, both were half an hour in duration.

4 So the three values, according to
5 Galaz, duration, station, and time of day.
6 They have to have the exact value. In fact,
7 in the final column you'll see that the IPG
8 estimated relative value is the same for those
9 two.

10 However, you will see in the
11 second-to-the-last column that my estimate for
12 viewership is quite a bit different. It's
13 about -- I've got to do my math --
14 approximately 2,700 additional households are
15 watching Pokemon. That's about a 50 percent
16 differential.

17 So if you add these up, that winds
18 up being substantial. That is a conceptual
19 flaw that can't be fixed, because it's the
20 design of his formula.

21 Q And that's because his methodology
22 overvalues one program over another because it

Neal R. Gross & Co., Inc.
202-234-4433

1 does not consider whether or not there was
2 estimated viewing for a particular program,
3 because this is only concentrating on program
4 volume. Is that right?

5 A Well, ultimately, it's because it
6 ignores measures of program popularity, such
7 as actual viewership. But another flaw in the
8 table, or that is revealed in the table, if
9 you look between these two sets of examples,
10 are the Dragonball Z and Judge Joe Brown right
11 above it.

12 Judge Joe Brown is a first-run
13 syndication show. I see a smile from the
14 bench. Perhaps it's familiar.

15 (Laughter.)

16 But Judge Joe Brown also aired at
17 4:30, on a different station, though, on KRON,
18 which is not carried by as many subscribers as
19 is WPIX.

20 So because of that, the IPG
21 methodology gives Dragonball Z much, much
22 higher relative value. What is that? It's

Neal R. Gross & Co., Inc.
202-234-4433

1 almost 30 times higher, despite the fact that
2 only about three or four times as many
3 households are watching Dragonball Z.

4 Again, this is a conceptual flaw
5 because it -- the Galaz methodology puts on,
6 in my opinion, too much emphasis on the size
7 of the stations and ignores sort of within-
8 station differences; that is, the programming
9 popularity differences airing on the same
10 station. It's completely ignored.

11 Q Okay.

12 A So those are conceptual flaws.

13 Q Did you have other flaws? Did you
14 identify any other flaws? I'm sorry.

15 A I sort of identified item of host
16 as appropriate, or I identified a number of
17 flaws in application. The first and foremost
18 flaw in application is that he relies upon a
19 non-random sample. And we talked about sort
20 of importance of having a random sample
21 earlier.

22 And secondly, actually, the non-

Neal R. Gross & Co., Inc.
202-234-4433

1 random sample is taken from a population of
2 CSOs that is not the entire universe of CSOs,
3 but it restricts his selection of CSOs from
4 just the larger CSOs; that is, the Form 3
5 CSOs. It does not select any stations airing
6 on only Form 1 and/or Form 2 CSOs.

7 But the importance of the non-
8 random sample, as I said earlier, is that you
9 can make no valid statistical conclusions
10 regarding relative viewership or relative
11 value for programming airing on stations
12 outside the sample.

13 His issue with just focusing on
14 Form 3 CSOs, two things. One is you don't
15 capture any programming on the smaller CSOs,
16 but also he winds up overstating his coverage.
17 He mentions he covers -- I don't remember the
18 numbers, but it's in my testimony -- but 33 to
19 35 percent of CSOs, when in fact that is the
20 percentage of Form 3 CSOs. It's a smaller
21 percentage of all CSOs.

22 Another flaw in his methodology

Neal R. Gross & Co., Inc.
202-234-4433

1 has to do with his exclusion of compensable
2 program titles. And I identified this just
3 based upon his data, and what I had noticed
4 is, while he identifies programs such as the
5 Fresh Prince of Bel-Air and Simpsons as
6 compensable MPAA programming, which they are,
7 he fails to identify The Simpsons or The Fresh
8 Prince of Bel-Air as compensable MPAA
9 programming.

10 Similarly, there are numerous
11 foreign titles, actually titles with accents
12 in them, which I am not going to try to
13 pronounce but they're in my testimony, that he
14 excludes. And he appears to have some issue
15 in the software that he uses in terms of
16 reading and accents, but -- and these
17 disproportionately tend to be MPAA-represented
18 programming, but he excludes them from his
19 analysis.

20 So I look at those stations where
21 I overlap with his and find that his share of
22 IPG royalties would decrease between 7.5

Neal R. Gross & Co., Inc.
202-234-4433

1 percent and 14.4 percent. If you follow his
2 methodology to the letter, all his other flaws
3 that I haven't yet identified -- well,
4 including the non-random sample -- but just
5 put back in those compensable programs that
6 should not have been excluded, his share drops
7 by that amount.

8 Next flaw, in addition to
9 excluding compensable programming, he includes
10 programming that I understand to be non-
11 compensable; that is, programs that aired on
12 distantly retransmitted Canadian signals, but
13 they originated outside of the United States.
14 So I understand that they are not compensable
15 and that they are irrelevant to this
16 proceeding.

17 These tend to wind up being -- and
18 it's shown in Table 3 of my rebuttal testimony
19 -- these wind up being disproportionately IPG-
20 represented programming.

21 So if you follow, again, his
22 approach to the letter, and just correct this

Neal R. Gross & Co., Inc.
202-234-4433

1 one mistake, and exclude these programs that
2 I understand should have been excluded but
3 were not, that's a more modest impact, because
4 these Canadian stations aren't -- they're
5 relatively small, but it winds up being a
6 reduction in the IPG share of between 2.7 and
7 7.9 percent per year.

8 Q Any other flaws?

9 A I'm going to skip a couple. Let
10 me go to the -- his false assertion regarding
11 the time period weight factor, because the
12 time period weight factor is an important
13 variable in his formula. It's one of the
14 three.

15 He asserts in his written
16 testimony that he calculates a different time
17 period weight factor for each half hour of the
18 day; that is, the percentage of viewership
19 that takes place on a half-hour basis.

20 When I looked at his data and
21 tried to figure out exactly what he was up to,
22 I found out that there were only six time

Neal R. Gross & Co., Inc.
202-234-4433

1 period weight factors that he uses, so based
2 on very broad day parts. And this is
3 highlighted in Table -- use all the words --
4 Table 4 on page 22 of my rebuttal report.

5 I'll show you a couple of examples
6 to illustrate how important this is to his
7 conclusions. We'll look at the first two
8 rows. The first is Andromeda, which is a one-
9 hour science fiction show, which I personally
10 have not seen but it's a favorite of my
11 youngest brothers, but it's MPAA-represented,
12 has a bit of a cult following. And in May of
13 2002, it aired at 5:00 p.m.

14 Also, the next row down I should
15 say, before I go on, at 10:00 a.m., the video
16 Computer Store represented by IPG on February
17 3rd at 10:00 a.m. Very different time, but
18 according to Mr. Galaz's data, he gives them
19 the same time period weight factor.

20 Because the programs are the same
21 length, both airing on WGN, both had the same
22 Galaz time period weight factor, by his

Neal R. Gross & Co., Inc.
202-234-4433

1 formula they have the exact same relative
2 value. However, as shown in -- what is that,
3 the third column from the right? My brother's
4 favorite show has almost 10 times as many
5 households viewing it.

6 A similar example with the next
7 two. The point there is this use of a broad
8 time period weight factor leads to, arguably,
9 indefensible relative value estimates.

10 If I correct just that measure and
11 do what he says he did in his direct testimony
12 -- and that is to put in 48 time period weight
13 factors, one for each half-hour -- I find --
14 but include all of his other mistakes, I find
15 that his calculated share for IPG royalty
16 would drop between 16.6 percent and 23.8
17 percent each year between 2000 and 2003.

18 Q I just wanted to go back to --

19 CHIEF JUDGE BARNETT: I'm sorry.
20 Could you repeat those percentages, or are
21 they in your written testimony?

22 THE WITNESS: They are. I will

Neal R. Gross & Co., Inc.
202-234-4433

1 read them by year, though, because I have the
 2 page in front of me. In the year 2000, IPG's
 3 royalty share would decrease by 17.7 percent.
 4 In the year 2001, it would decrease by 23.8
 5 percent. In the year 2002, it would decrease
 6 by 17.1 percent. And in the year 2003, it
 7 would decrease by 16.6 percent.

8 CHIEF JUDGE BARNETT: Thank you.

9 BY MR. OLANIRAN:

10 Q I will come back to this line in a
 11 second, but I wanted to ask you -- remember,
 12 you identify the data sets that you used for
 13 your regression analysis. Remember that?

14 A I do.

15 Q Yes. You received a data set from
 16 Reznick Group, which ultimately you used in
 17 your analysis, remember that?

18 A Yes.

19 Q And did you make any modifications
 20 to the data you received from the Reznick
 21 Group before using it in your analysis?

22 A Yes. And this is described, not

Neal R. Gross & Co., Inc.
 202-234-4433

1 in my expert report, but in my description, my
 2 analysis, that I understand was turned over to
 3 IPG.

4 But in performing routine, you
 5 know, data integrity checks, and naturally
 6 looking -- were actually really looking for
 7 information that we could use to accurately
 8 predict distant viewing, I noticed that there
 9 were a series of what appeared to be network
 10 programs in the Reznick/Tribune data.

11 And I had understood that network
 12 programs were not compensable and should have
 13 been excluded. And these were designated by
 14 a type code I think of A, C, or N, which
 15 refers to ABC, CBS, and NBC, and confirmed via
 16 counsel that, indeed, those were network
 17 programs. And so those were dropped from my
 18 analysis.

19 Q And then, going back to your
 20 analysis of the Galaz methodology, what did
 21 you conclude ultimately as to the methodology?

22 A I concluded that it was not

Neal R. Gross & Co., Inc.
 202-234-4433

1 reliable.

2 Q Also, you are aware of the Judges'
 3 recent decision to reclassify the claims of
 4 the U.S. Olympic Committee and the United
 5 Negro College Fund programs to the program
 6 suppliers category. Did you go back to
 7 revisit your analysis with respect to those
 8 two claimants to see whether or not your
 9 proposal would change?

10 A I did. And I also went back
 11 through additional ones I learned of last
 12 night with respect to I think BBC Worldwide,
 13 and there was another I'm not remembering --

14 Q Reel Funds?

15 A Reel Funds perhaps.

16 Q And Venevision?

17 A And Venevision. These all sound
 18 familiar. But went back and replicated the
 19 analysis, and my calculated MPAA royalty
 20 shares did not change to the second decimal
 21 point. I think they changed to the third or
 22 fourth decimal point.

Neal R. Gross & Co., Inc.
 202-234-4433

1 My proposed royalty allocation
 2 share, as well as royalty viewing, are
 3 unaltered by those inclusions of IPG-claimed
 4 programming.

5 Q So just have you now considered
 6 all of the changes based on the orders by the
 7 Judges from the March 21st order and the
 8 decision -- the determinations that the Judges
 9 made yesterday with regard to certain
 10 claimants, as well as -- I feel like I'm
 11 missing one other one.

12 A Well, as well as certain claimants
 13 who rejected representation.

14 Q Okay. So having considered all of
 15 that, do you now have a final share allocation
 16 that you are recommending to the Judges?

17 A Yes. It is on page 26 of my
 18 rebuttal report, the final column. And I will
 19 just go ahead and read them, I suppose. This
 20 is proposed MPAA royalty shares by year -- the
 21 year 2000, 98.93 percent; the year 2001, 99.72
 22 percent; year 2002, 99.69 percent; and the

Neal R. Gross & Co., Inc.
 202-234-4433

1 year 2003, 99.80 percent.

2 MR. OLANIRAN: Those are all the
3 questions that I have, Your Honor.

4 CHIEF JUDGE BARNETT: Thank you.

5 MR. OLANIRAN: Thank you.

6 CHIEF JUDGE BARNETT: Okay.

7 JUDGE FEDER: Dr. Gray, can you
8 just state the basis for computing and
9 reporting this to two decimal places?

10 THE WITNESS: That's actually a
11 very good question, and the answer is -- and
12 this is in the footnote on page 26. I have a
13 95 percent confidence interval that provides
14 sort of a lower and upper bound.

15 And so in my first report I did it
16 to one decimal point, but the main reason for
17 doing it is just there is a material
18 difference with respect to one and two decimal
19 points, so I decided to report the point
20 estimate to two. But it could certainly be
21 done to one decimal point.

22 MR. OLANIRAN: And, Your Honor, if

Neal R. Gross & Co., Inc.
202-234-4433

1 I may just go back on the record, just one
2 more question. I meant to make a
3 clarification.

4 BY MR. OLANIRAN:

5 Q Your testimony with regard to
6 IPG's -- the Galaz methodology's time period
7 weight factor, do you understand that since
8 you filed your testimony that IPG has since
9 corrected that?

10 A I understand that they represented
11 that they tried to correct it, yes.

12 MR. OLANIRAN: Okay. Thank you.

13 CHIEF JUDGE BARNETT: Now, Mr.
14 Boydston.

15 MR. BOYDSTON: Thank you, Your
16 Honor.

17 CROSS-EXAMINATION

18 BY MR. BOYDSTON:

19 Q Good morning, Dr. Gray. My name
20 is Brian Boydston. I represent the
21 Independent Producers Group. I want to ask
22 you about this concept of -- well, strike

Neal R. Gross & Co., Inc.
202-234-4433

1 that. Let me just ask you a question, sort of
2 a hypothetical.

3 In terms of program homogeneity,
4 would you consider that a children's cartoon
5 broadcast out of Toronto, and a children's
6 cartoon broadcast out of Buffalo, though
7 roughly the same -- aimed at the same age
8 group, would be fairly -- considered to be
9 fairly homogenous programming? Relative to
10 all programming there is?

11 A Relevant to all programming, I
12 would expect it to be perhaps more homogenous.
13 But, ultimately, I would like to see the
14 distant viewing and/or local ratings
15 associated with those programs. I mean,
16 certainly some cartoons my kids would have
17 told you 10 years ago are more popular than
18 others.

19 Q Would it be safe to say that a
20 cartoon being broadcast out of Toronto
21 probably, in most cases, is going to be more
22 homogenous with a documentary broadcast out of

Neal R. Gross & Co., Inc.
202-234-4433

1 Buffalo or anywhere else?

2 A I'm sorry. Can you repeat the
3 question?

4 Q Sure. Wouldn't you say that two
5 cartoons are probably more homogenous than a
6 cartoon and a documentary, for instance?

7 A I would expect them to be.
8 Certainly, they sound more similar, two
9 cartoons.

10 Q Right.

11 A Of course, it ultimately depends
12 on what one means by "homogeneity," but yes.

13 Q Well, in your discussion, or I
14 should say your response to questions by
15 counsel, about the homogeneity of the program
16 suppliers group, your testimony was that it is
17 generally homogenous, correct?

18 A Correct.

19 Q However, within that group, we
20 have some programs that are very, very
21 different, for instance, a children's show and
22 a documentary. Wouldn't those be considered

Neal R. Gross & Co., Inc.
202-234-4433

1 fairly non -- I can never pronounce that word
2 -- not very homogenous?

3 A Yeah. I certainly think a
4 documentary is different from a cartoon. If
5 that's your question, I will say yes.

6 Q And although certain Canadian
7 broadcasts are in a different group than the
8 program suppliers category that are in the
9 Canadian claimants group, in many respects,
10 some of those programs are probably more
11 homogenous than programs within the program
12 suppliers group, like a documentary and a
13 cartoon, right?

14 A That is potentially the case. I
15 certainly did not make the demarcation of what
16 goes into program suppliers or what goes into
17 a different Phase 1 category.

18 Q Let me turn to your testimony with
19 regard to the two samples that you used in
20 your analysis, the one that was developed by
21 Ms. Kessler and the one by you. Now, there
22 were different numbers of stations in each

Neal R. Gross & Co., Inc.
202-234-4433

1 group. You had a few more stations in your
2 group than she did, correct?

3 A Yeah. I don't recall her exact
4 number. I think it varied by year. But I
5 think in general I had more in my sample than
6 she did.

7 Q And then, what you wanted to do is
8 compare your list and Ms. Kessler's list and
9 essentially make analyses between the two,
10 correct?

11 A I would not characterize it that
12 way. What I did was I -- for those stations
13 that we had in common, that is where I could
14 make a -- perform the mathematical check in
15 terms of how local ratings was associated with
16 distant viewing.

17 Q So in making those comparisons,
18 you weren't taking -- that was where my
19 questions were going. You weren't taking your
20 entire set and Ms. Kessler's entire set; you
21 were just taking those within each set that
22 were the same.

Neal R. Gross & Co., Inc.
202-234-4433

1 A Right. That's why I said my
2 testimony is there is approximately 70
3 stations per year.

4 JUDGE STRICKLER: Counsel, may I
5 interject for a second?

6 MR. BOYDSTON: Yes.

7 JUDGE STRICKLER: Since you were
8 looking for this overlap between Ms. Kessler's
9 sample stations and your random -- stratified
10 random sampling of stations, would it be fair
11 to say or accurate to say that by looking for
12 the overlap, since Ms. Kessler's sample was
13 not random, and you said that troubled you
14 before, that that somehow -- I don't know if
15 this word is an overstatement, but polluted
16 the randomness, or compromised is perhaps the
17 better word, the randomness of the sample that
18 you yourself had selected.

19 THE WITNESS: That's a very good
20 question. Hence, I used the word "queasy"
21 early on. But absolutely, and so that's why
22 I took steps to say, "Okay. Is the

Neal R. Gross & Co., Inc.
202-234-4433

1 relationship between local ratings and distant
2 viewing somehow affected by the fact the
3 Kessler sample is non-random? And so I took
4 tests to try to look at what I expected to be
5 the case and looked at smaller -- sort of
6 smaller stations within the Kessler sample and
7 larger stations within the Kessler sample.

8 JUDGE STRICKLER: Maybe I didn't
9 appreciate what you said before on direct, or
10 maybe you didn't say it, but what steps did
11 you take to try to mitigate the problem of the
12 lack of sufficient randomness caused by the
13 overlap?

14 THE WITNESS: So when -- there is
15 an overlap of approximately 70 stations, so
16 what we have there is, you're right, it's a
17 subset of my stations, of the random stations,
18 and a subset of her non-random stations.

19 What you have is distant viewing
20 hat is potentially non-random, right?
21 Selected non-randomly. The local ratings is
22 from a random sample, but now we're a subset

Neal R. Gross & Co., Inc.
202-234-4433

1 of those samples.

2 So what I checked was let me take
3 smaller CSOs from the Kessler sample or -- I'm
4 sorry -- I should say smaller retransmitted
5 stations, I misspoke, so the lower quartile of
6 CSOs, and look at the correlation there and
7 sort of run my analysis just on those lower
8 CSOs.

9 And the idea here is this, is the
10 big concern with the Kessler sample, in terms
11 of randomness, is it was selected really to
12 take the larger stations. And so the concern
13 is, is the relationship between local ratings
14 and distant viewing somehow different with
15 smaller stations? So that is really the only
16 concern.

17 If the relationship is different
18 for smaller stations, then when I make my
19 projections across my random stations I might
20 have a -- to use your word, a polluted
21 prediction. But what I found is if I use just
22 the lower quartile of Kessler, or the next

Neal R. Gross & Co., Inc.
202-234-4433

1 couple or top quartile, I wound up getting
2 essentially the same exact prediction, leading
3 me to the conclusion that the relationship
4 between local ratings and distant viewing is
5 not dependent upon the size of the station
6 being retransmitted in terms -- when I say
7 "size," I mean the number of distant
8 subscribers.

9 The one exception to that, as I
10 said before, was WGN, which just seemed a
11 little wacky, for lack of a better word.
12 That's non-scientific, and so I ran a separate
13 regression for WGN.

14 You are making an expression which
15 I am trying to -- does that make sense to you?

16 JUDGE STRICKLER: It makes sense
17 to me, but I thought Ms. Kessler said a non-
18 random sample was a sample based on the size
19 of the CSO rather than the size of the
20 station. Or am I mistaken?

21 THE WITNESS: It is based upon the
22 -- let me get Kessler here, if I have it in

Neal R. Gross & Co., Inc.
202-234-4433

1 front of me. But it's in terms of the --
2 ultimately, it is going to be the stations.
3 I don't have it in front of me. That's the
4 best of my recollection.

5 MR. BOYDSTON: For what it's
6 worth, it's mine as well.

7 THE WITNESS: Okay.

8 JUDGE STRICKLER: Okay, good.
9 Appreciate it.

10 BY MR. BOYDSTON:

11 Q Now, as you were saying, the
12 Kessler list was basically chosen in terms of
13 size, correct? And what you determined was,
14 despite the fact it wasn't random, as it
15 turned out, when you compared it to your
16 selection of stations and went through the
17 different quartiles, you found that there
18 wasn't a significant difference created by the
19 fact that she chose it based on size, correct?

20 A Right. Because, remember, my
21 ultimate goal is to predict distant viewing
22 for my random sample. And the key here is

Neal R. Gross & Co., Inc.
202-234-4433

1 just to have the relationship, not only
2 between local ratings but all of the factors
3 in distant viewing to be stable across sort of
4 station size.

5 And I found that to be relatively
6 stable, so I was comfortable from a
7 statistical point of view making the
8 projections based upon these overlapping
9 stations to just my random stations.

10 Q And you certainly examined the
11 Galaz direct testimony and the Galaz rebuttal
12 testimony, correct?

13 A I reviewed them, yes.

14 Q Yeah. To review the methodology,
15 correct?

16 A Yes.

17 Q And isn't it true that the
18 stations selected for the IPG methodology were
19 also based on size. It was the top 200 or the
20 top 230, depending upon the sample, correct?

21 A That's correct, yes.

22 Q Okay. Like the Kessler selection

Neal R. Gross & Co., Inc.
202-234-4433

1 as well, which was also based on size,
2 although it was smaller, correct?

3 A Right. That's why I said before I
4 would not draw conclusions from the Kessler
5 sample alone with respect to royalty shares,
6 and I would not draw conclusions from the
7 Galaz sample alone with respect to royalty
8 shares.

9 Q But when you conducted your test
10 to compare the Kessler selection versus your
11 selection, what you found was the exclusion of
12 those smaller stations, as you called it, by
13 Kessler didn't have a significant impact on
14 the analysis you were running at that time --

15 A If --

16 Q -- of the analysis you were
17 running at that time, correct?

18 A I just want to make sure you
19 understand what it is that I was looking at.
20 What I was looking at is the relationship now
21 between local ratings, number of distant
22 subscribers, quarter-hour of the day, et

1 cetera, the relationship between that and
2 distant viewing. The key is I want stability
3 of that in order to make projections for my
4 random sample. But ultimately my prediction
5 for distant viewing is for a random sample.

6 Q You stated that at the end of your
7 analysis you -- and this was I think in your
8 introduction to your analysis -- you said at
9 the end of it what we had was we had a
10 measurement of viewing for each individual
11 program, correct?

12 A In my random sample, yes, on the
13 quarter-hour basis.

14 Q But for each program, correct?

15 A Correct.

16 Q Was that generated into some kind
17 of a document or an electronic file or
18 something like that, I presume? It was
19 generated somehow, correct?

20 A Yes. Well, ultimately the
21 projections are made, and then they are added
22 up to get the numbers that are presented or

1 the relative percentages that are presented in
2 my testimonies.

3 Q Okay. I ask because I have seen
4 no document that has that information on it,
5 i.e. the MPAA's -- or, excuse me, I should be
6 specific, i.e. the MPAA's study -- statement
7 as to how much viewing there was for each
8 program. Is that document anywhere in the
9 materials that have been put before the panel?

10 A Is that document? No. No. What
11 is put before the panel is the percentage of
12 relative viewing between MPAA and IPG in
13 total.

14 Q To your knowledge, was that
15 document ever produced to IPG?

16 A To be clear, what you would be
17 talking about is, you know, a document of
18 about 6.8 million quarter-hour observations of
19 relative -- of programming on the quarter-hour
20 basis. I don't know if that document per se
21 was actually ever produced, period. I mean,
22 it wasn't necessarily retained.

1 Q But it was generated in electronic
2 format, certainly, because that's how you got
3 the information, correct?

4 A Well, when you say "generated,"
5 right, so you -- it is perhaps in the ether
6 state of a computer program. It is projected
7 by the regression, and then you write a code
8 to sum up those numbers. So you would get a
9 little loop that sums up the numbers, and
10 then, you know, generates the numbers that are
11 presented in the testimonies.

12 Q And was that ever -- you said it
13 -- was that calculation of a viewing value for
14 each program ever saved or put into a discrete
15 document that anyone can look at?

16 A Well, what was turned over was the
17 regression specification, and then -- and
18 turned also the codes to sum up the output of
19 the regression specifications. That was
20 turned over, yes.

21 Q It sounds like that means the
22 answer to my question was no, there is no file

1 or document that lists all of these programs
2 that we are talking about, and shows the
3 corresponding value the MPAA methodology
4 attaches to it. That doesn't exist. It's not
5 before the panel, is it?

6 A To be clear, I have never seen
7 such a document, so I --

8 Q I'm asking whether it's before the
9 panel, and I guess your answer means it's not,
10 correct?

11 A I have not seen it, the panel has
12 not seen it, it has never been generated.

13 Q Could it be generated?

14 A Yes, I could provide --

15 Q Has it been generated?

16 A No, it has not. I could provide a
17 document of 6.8 -- approximately 6.8 million
18 distant viewing for IPG programs as well as
19 for MPAA programs.

20 Q But, clearly, it was necessary to
21 have it in some form to then arrive at the
22 final percentages you have given to the panel,

Neal R. Gross & Co., Inc.
202-234-4433

1 correct? Otherwise, how do you come up with
2 those percentages?

3 A I'm somewhat confused by the way
4 you are thinking about it. The way I think
5 about it is you have five raw databases that
6 you combine together. And based upon those
7 five raw data sets, you know, which is a
8 tedious process, but relatively
9 straightforward, you run the regressions that
10 I described and predict out distant viewing.

11 I turned over to you the exact
12 specification of those regressions, and so you
13 predict out distant viewing, add up the
14 distant viewing. This is a program -- it's
15 not any document that I've seen, even in --
16 it's not even in the program, in the loop, to
17 get the relative program shares.

18 Q Well, I guess the trouble I'm
19 having is I understand how you are saying you
20 arrived at these numbers, but, from my -- what
21 I can tell, there is no way anyone else can
22 figure out how you added this up.

Neal R. Gross & Co., Inc.
202-234-4433

1 I appreciate that the MPAA
2 methodology, as you testified, has come up
3 with a separate value for each of these
4 programs. And then you have added up all of
5 the IPG programs' values, and you have added
6 up all of the MPAA programs' values.

7 But how can I or the Judges make
8 sure that it was done correctly, or even see
9 how much value was given to Program A versus
10 Program B?

11 A Well, I can tell you how, which
12 is, again, I provided a document which had a
13 roadmap of the steps to take, which is to --
14 you take these five data sets that I
15 described, merge them together based upon
16 station, date, quarter-hour, run the
17 regressions, because quite frankly I don't
18 know what one would do if -- well, I guess
19 perhaps it would simplify it for you. But if
20 you run the regressions, you have the output
21 on predicted viewing, and add them up.

22 And this is important. I had a

Neal R. Gross & Co., Inc.
202-234-4433

1 team of people in my firm do it, and then I
2 had a separate, independent team, I said,
3 "Okay. Here is the raw data. Here is a brief
4 description. Replicate it." And they did.

5 Q I'm familiar with the roadmap.
6 The roadmap, though, does not provide the end
7 answer, does it? It doesn't provide this
8 information I am asking for, which is the
9 specific calculation of value for each program
10 pursuant to your methodology. It doesn't
11 include that, does it? And that has never
12 been provided, has it?

13 MR. OLANIRAN: Objection. Your
14 Honor, it has been asked and answered.

15 CHIEF JUDGE BARNETT: Sustained.

16 BY MR. BOYDSTON:

17 Q In your testimony, you talked
18 about different tests that you ran to
19 essentially test your regression analysis,
20 correct?

21 A Yes.

22 Q And one of them was the one we

Neal R. Gross & Co., Inc.
202-234-4433

1 have been touching on earlier where you took
2 different permutations of Ms. Kessler's list
3 and ran separate analyses as to different
4 quartiles, correct?

5 A Correct.

6 Q And you said you ran a separate
7 regression analysis for WGN, I believe, right?

8 A That's correct.

9 Q I didn't see this in your
10 testimony, but am I incorrect, was this in
11 your testimony, your written testimony, I
12 mean?

13 A The separate for WGN, yes, it was.
14 It was in the appendix to my amended
15 testimony, I believe.

16 Q Okay. Appreciate that. I must
17 have missed that. I didn't see it there.

18 JUDGE STRICKLER: Is that your
19 Appendix C?

20 THE WITNESS: Appendix C has the
21 abbreviated version. The extended version was
22 turned over to IPG in a log file, but yes.

Neal R. Gross & Co., Inc.
202-234-4433

1 BY MR. BOYDSTON:

2 Q Now, another comparison that you
3 said you made, sort of -- I think the word you
4 used as a "benchmark" -- was the total volume
5 of unique programs by the MPAA and by IPG,
6 correct?

7 A That is correct, yes.

8 Q Now, when you did that, when there
9 were situations in which both the MPAA and IPG
10 had claims on a program, who did you credit
11 that program to in coming up with this
12 comparison? Did you credit it to the MPAA?

13 A If both IPG and MPAA selected the
14 same program, then I credited it to MPAA, yes.

15 Q And so, of course, that made the
16 MPAA percentage or total higher than it would
17 be than if had been according to the IPG or if
18 they had each been recorded a half-share,
19 obviously, right?

20 A Yes. Insofar as it is non-zero,
21 yes.

22 Q And you didn't include any

Neal R. Gross & Co., Inc.
202-234-4433

1 Canadian programs in that calculation either,
2 right?

3 A Not programs from Canadian
4 stations, no.

5 Q Okay. And I think you also
6 testified that Canadian station programs, just
7 before -- or, excuse me, that IPG programs,
8 there are a disproportionately higher number
9 of IPG programs coming out of Canadian
10 stations than MPAA programs, correct?

11 A I believe I testified that a
12 disproportionate number of non-compensable
13 programs were, yes.

14 Q But that's --

15 A That I understand to be non-
16 compensable.

17 Q That is only your understanding,
18 that they are non-compensable. They are
19 Canadian. And when you said non-compensable,
20 you meant Canadian, with the assumption that
21 they are non-compensable because they are
22 Canadian, right?

Neal R. Gross & Co., Inc.
202-234-4433

1 A It is my understanding that they
2 are non-compensable if they originated out of
3 Canada, yes.

4 Q And what is the basis for that?

5 A It was Marsha Kessler's testimony.

6 Q Anything else?

7 A No.

8 Q Okay. You are not familiar with
9 the Phase 1 definitions of the different
10 categories here, is that correct?

11 A I don't know the exact definitions
12 of the different categories, no.

13 Q Now, if it were the case that
14 certain Canadian programs were compensable to
15 IPG, then that comparison that you made of
16 total program volume would be -- need to be
17 adjusted, if that were the case, correct?

18 A Well, my calculation of program
19 volume is from a random sample of stations.
20 I would have to give it thought whether or not
21 a change in the universe from which it was
22 drawn, how that would affect my ultimate

Neal R. Gross & Co., Inc.
202-234-4433

1 conclusions.

2 Q Okay. And these were your charts
3 on page 22, I believe, of your --

4 A I was looking at 23, but now I'm
5 looking at 22, yes.

6 Q And then the other comparison was
7 unique programs -- excuse me, unique program
8 retransmissions. Now, there again, any
9 program that was claimed both by MPAA and IPG,
10 you credited to the MPAA, right?

11 A That's correct, yes.

12 Q And you didn't include any
13 Canadian programs, right?

14 A I do not believe there is any
15 Canadian programs contained in there. I would
16 have to check. I don't know if there are any
17 Canadian programs on non-Canadian stations.
18 I don't know the definition that you are using
19 of a Canadian program.

20 Q Now, with regard to page 8,
21 Table 2 -- Table 2, I believe, on page 8 --

22 A This is must be the rebuttal

1 testimony?

2 Q Yes, which I did not bring with
3 me. You discussed the comparison that you are
4 making between different programs in the
5 different -- in the various time slots to
6 argue that the problem with the IPG approach
7 was that it would be according the same value
8 to two different programs that happen to come
9 in the same time slot, even if they had
10 different viewership, correct?

11 A In this case, different
12 viewership, yes.

13 Q Okay. Now, you are familiar with
14 the fact that sometimes when the Nielsen data
15 falls below a certain level of viewers being
16 sampled, there are relative error rates that
17 become a concern at some point, correct?

18 A Yes, I'm familiar with relative
19 errors and the associated issue with small
20 sample size, yes.

21 Q And, in fact, there is -- well, I
22 don't know. Sorry, you weren't in the room

1 when this happened. Are you aware that
2 Nielsen itself acknowledges that when you get
3 under 10,000 people, or 10,000 households,
4 there is a high relative error rate, correct?
5 Or actually I shouldn't say correct. Are you
6 aware of that?

7 A Yes. I have actually -- I wasn't
8 here this morning, or earlier this morning,
9 but I have read Mr. Lindstrom's testimony in
10 prior hearings where he has made those
11 conclusions, yes.

12 Q Now, in looking at your Table 2
13 here under the column Nielsen Viewing
14 Households, all three are -- or three or the
15 four of those are under 10,000, and one is
16 just a hair above 10,000 at 10,888. That's
17 correct, right?

18 A That is correct, yes.

19 Q And so that would fall certainly
20 into the range of the concern over relative
21 error rates expressed by the MPAA itself,
22 correct?

1 A Yeah. Yes, with relative error.
2 But, again, these are point estimates, and you
3 have to keep in mind what Mr. Lindstrom's
4 concern is with respect to relative error,
5 because I have -- although I was not here
6 earlier this morning, I have read his earlier
7 testimonies, and he has made it clear, I
8 believe, that the relative error issue is with
9 respect to a particular observation, and that
10 this issue with respect to the relative error
11 decreases actually dramatically for each
12 successive observation.

13 Q But by the same token, it is still
14 a concern when you are focusing in on a
15 particular quarter-hour or half-hour segment,
16 correct?

17 A Right. That's why one needs to
18 make steps either via regression analysis and
19 aggregate information, or the way Nielsen does
20 it, which is to look at the results in total.

21 Q Now, you pointed out an error that
22 -- in the application of -- excuse me, let me

1 start over. You pointed out that IPG made an
2 error in the application of its own
3 methodology with regard to the time period
4 weight factor, in that they employed only six
5 different time periods as opposed to 48, which
6 is what their methodology was, correct?

7 A That's correct, yes.

8 Q I think that you would agree that
9 it is appropriate, then, that IPG should
10 correct that in its analysis, right?

11 A That's one of several corrections
12 they should make. But even after making all
13 of their corrections, as I pointed out
14 earlier, it would still be a flawed and
15 unreliable analysis.

16 Q Well, that remains to be seen.
17 Now, you said that you made a change to the
18 material you received from the Reznick Group.
19 Do you recall that in your testimony here
20 today?

21 A Yes.

22 Q Now, was that reflected in your

Neal R. Gross & Co., Inc.
202-234-4433

1 amended written statement?

2 A It was reflected in my data
3 description document that we spoke about
4 moments ago.

5 Q Okay. So not in the amended
6 statement, but in the -- we had some other
7 term we used for it -- in the roadmap.

8 A Roadmap, sure.

9 MR. BOYDSTON: Your Honor, I've
10 got more than another 20 minutes at least, so
11 I don't know if we want to break for lunch or
12 not. I happen to be staring practically at
13 the clock is all.

14 CHIEF JUDGE BARNETT: I'm
15 definitely ready to break for lunch. I expect
16 I'm not alone in that. So we will break at
17 this time, and we will keep our 1:30
18 reconvening time, so we have a full three
19 hours this afternoon.

20 (Whereupon, at 12:07 p.m., the
21 proceedings in the foregoing
22 matter recessed for lunch.)

Neal R. Gross & Co., Inc.
202-234-4433

1 CHIEF JUDGE BARNETT: Mr.
2 Boydston, do you want to continue with cross-
3 examination?

4 MR. BOYDSTON: Thank you, your
5 Honor.

6 BY MR. BOYDSTON:

7 Q Dr. Gray, with regard to the MPAA
8 methodology, you didn't create it, correct?
9 You sort of inherited it from others who had
10 devised it originally and worked on it before;
11 is that a fair statement?

12 A No.

13 Q Okay. In what respect is that not
14 a fair statement?

15 A I would describe it as myself
16 creating it.

17 Q Okay.

18 CHIEF JUDGE BARNETT: I'm sorry.
19 I didn't hear that.

20 THE WITNESS: I created the
21 methodology.

22 BY MR. BOYDSTON:

Neal R. Gross & Co., Inc.
202-234-4433

1 Q Okay. Were there aspects of prior
2 MPAA methodologies that you used in that
3 process?

4 A No.

5 Q Okay. It's fair to say, though,
6 that the MPAA has used viewership-based
7 methodologies in the past, correct?

8 A Yes, that is true.

9 Q And are you familiar with the
10 methodologies the MPAA has used in the past?

11 A Yes. For example, the 1989
12 methodology I'm familiar with.

13 Q And, in fact, this methodology,
14 your methodology, if you will, is similar to
15 it, correct?

16 A No, I do not believe so.

17 Q Okay. I beg your pardon. I'm
18 going to have to step over my desk. I forgot
19 to bring something up with me. This is a copy
20 of the decision in the 1989 proceedings, and
21 I'd like you to take a look at it. Are you
22 familiar with this decision from the 1989

Neal R. Gross & Co., Inc.
202-234-4433

1 proceedings?

2 A I'm familiar with the decision.
3 You'd have to put it in front of me to make
4 sure that we're talking about the same one.

5 Q And that I shall do. There you
6 go. I seem to only have two other copies.
7 Well, it's not going to be submitted as an
8 exhibit, and we'll read the relevant portions.
9 If someone really wants one copy, I kept two
10 I can give to two people.

11 MR. OLANIRAN: If I could have a
12 copy.

13 MR. BOYDSTON: Sure. That was
14 you, Cliff, Mr. Harrington? Oh.

15 BY MR. BOYDSTON:

16 Q And I apologize, Dr. Gray. Did
17 you say that you were familiar with this or
18 you were not?

19 A I believe I reviewed it at one
20 point in time, but it's probably been over a
21 year ago.

22 Q Okay. In your own words just a

1 few minutes ago, you referred to this. And I
2 guess what you were saying is that you were
3 familiar with this one in particular, correct?

4 A Again, I believe so. I reviewed
5 several decisions a year ago. This appears to
6 be one of the ones that I reviewed.

7 Q Okay. If I could ask you to look
8 at page 15.290, and that's at the very bottom
9 of these pages in the middle, in very small
10 type I'm afraid. But do you see where the
11 numerals are there? It says 57 Fed Reg 15,
12 and then the one I'm referring to is 290.

13 A Yes. It's in larger font up on
14 the top left, which is even easier on my eyes.

15 Q Oh, good. I don't have that
16 because I've got it folded over funny. Now,
17 in the middle column, there's a paragraph that
18 begins, "To do this, Nielsen first determines
19 the local viewing to a particular show (in
20 January or October). Then to construct the
21 distant viewing, it refers back to the next
22 earliest four-cycle sweep period (except July,

1 which Nielsen does not consider a
2 representative period). And for that same
3 time period, it ascertains the ratio of
4 distant to local viewing that occurred during
5 the same day part. Nielsen then applies the
6 ratio to the January or October show and
7 determines the distant viewing."

8 It seems to me that there are
9 aspects of that, certainly, that are similar
10 to your approach. Would you agree or
11 disagree?

12 A No. They seem to be doing some
13 interpolations over time, whereas mine does
14 not do that.

15 Q It goes on to say, "For example,
16 if the ratio is 15,000 distant viewers to
17 every 85,000 local viewers for the earlier
18 show shown in the comparable day part, and the
19 show in January or October was viewed by
20 42,500 households in the local market, Nielsen
21 would estimate that 7,500 households viewed it
22 in district markets."

1 It seems to me, from reading this,
2 that what they're doing is taking local
3 ratings and using them to try to extrapolate
4 distant ratings. Would you agree with what I
5 say that that appears to be what they're doing
6 here?

7 A It appears -- you know, I'd like
8 to sit down with this a little bit more -- but
9 it appears to be over time. They're referring
10 to sort of different four-period cycles.

11 Q Right.

12 A And that's something that I did
13 not do, which is sort of a very different
14 methodology.

15 Q Okay. Would you agree that it's
16 somewhat similar, though, to your approach in
17 that it is trying to take local viewing,
18 develop some tools from that, to then predict
19 distant viewing?

20 A That's what it appears to be
21 saying, but it's not similar to my
22 methodology. Again, my methodology, as I

described before, was done on a quarter-hour basis matched up on the exact same quarter-hour for distant viewing and local ratings. So it seems very different to me.

Q Your methodology does take ratings for distant viewing during the four months, referred to as sweeps weeks or sweeps months, and then, from that, fills in the blanks for the other eight months in the year, correct?

A Well, as I described before, it does a number of things. It aggregates all the information over these periods of time and predicts it not only for the non-sweeps months but even during the sweeps months, as well.

Q And, in fact, you changed your testimony to say you're really using six months, not four, correct? I thought that was something you said --

A No, no, that's absolutely correct. There were six sweeps months for expositional purposes, yes. More data, in my opinion, is better than less data.

Neal R. Gross & Co., Inc.
202-234-4433

Q And do you consider that to be a significant difference using six months as opposed to four then? I know you said more is better. Do you think it's a significant amount better?

A It's preferable. The adverb "significant," I can't opine with respect to that. It's better.

Q Well, I guess, you know, there's, out of 100, 11 is better than 10, but 50 is a lot better than 10. That's what I'm saying, significant. Do you think it's a significant change going from four months to six months? Preferable, I understand. But do you think it's significant or do you not?

A I would be happy -- I'm trying to figure out how to answer that question. It's somewhat vague. It's a 50-percent increase in months, which is a good thing. Is it significant? It's difficult for me to opine whether or not that's a significant difference. I strongly suspect -- this is the

Neal R. Gross & Co., Inc.
202-234-4433

reason why I'm hemming and hawing, and pardon me for doing that. I strongly suspect that, if I only used four months, I'd come up with almost exactly the same results. So insofar as that's the case with respect to my conclusions, I don't think it's significant or I would not expect it to be significant.

Q Okay. Now, in your study, the local ratings are taken from 120 stations, correct?

A That's correct. Approximately.

Q And the distant ratings data is taken from 81 to 125 stations that were in Ms. Kessler's list, correct?

A Well, actually, even less than that, but that's correct. That's the upper bound.

Q And you say less than that because you would only do the comparison with those stations chosen by Ms. Kessler that also fell within your group, correct?

A Correct.

Neal R. Gross & Co., Inc.
202-234-4433

Q And I think you said it was 70, correct?

A I said it was, on average, about 70 to 71, but it was less than 70 in the year 2000, greater than 70 in the years 2001 through 2003.

Q Okay. Because they're selected by different -- your list was different, selected by a different means than Ms. Kessler's, and so they're not, one is not the subset of the other, correct?

A I don't quite understand your question. Because of what?

Q You know, I'll withdraw the question. The point's made there are only 70 that are in the same group.

A There are approximately 70 --

Q Approximately.

A -- per year that are in both the Kessler sample and then my random sample, yes.

Q Okay. So the relationship that exists between the local ratings in the

Neal R. Gross & Co., Inc.
202-234-4433

1 stations you selected and the distant ratings
2 that Ms. Kessler selected are not on a
3 station-by-station basis but a broadcast by
4 broadcast basis, correct?

5 A Right. In fact, a quarter-hour by
6 quarter-hour basis.

7 Q And you said this in different
8 context. I just want to make sure it's the
9 same here. There's no Canadian stations in
10 any part of that analysis, correct?

11 A That's correct.

12 Q Or Mexican stations, I presume.

13 A That's correct, as well.

14 Q And, again, that's based on your
15 understanding that all Canadian and Mexican
16 programming, broadcasts, if you will, are not
17 compensable?

18 A It is what it is. I mean --

19 Q Well, you didn't include them, and
20 the reason you didn't include them is you
21 understood they weren't compensable, correct?

22 A My understanding is they weren't

Neal R. Gross & Co., Inc.
202-234-4433

1 compensable and/or they're very small, yes.

2 Q Very small. Okay. Isn't it true
3 that some of the Canadian stations are some of
4 the most heavily re-transmitted stations --

5 A And when I say very small, I mean
6 very small fraction of program, compensable
7 programs, supplier programming, is my
8 understanding.

9 Q Let me ask you to look at what is
10 Exhibit 4 to the direct case of Independent
11 Producers Group, and I'll represent to you
12 that this, obviously, was an exhibit to the
13 IPG direct statement. And the document there
14 is a listing of IPG stations surveyed. I
15 think you reviewed this, correct?

16 A I believe that's the case, yes.
17 It looks very familiar.

18 Q Okay. And I'm not going to ask
19 you to authenticate the document because you
20 didn't create it, obviously. But just as a
21 general matter, you understand that this is
22 purporting anyway to rank stations by the

Neal R. Gross & Co., Inc.
202-234-4433

1 total distant fees generated station by
2 station, correct? As I say, that's what it
3 purports to be. I'm not asking you to give it
4 a Good Housekeeping Seal of Approval.

5 A No. That's certainly what it
6 appears to be, yes.

7 Q Okay. And do you see that the
8 fourth station by fees generated is CBUT?

9 A I do see that, yes.

10 Q And are you familiar with the call
11 sign designations that begin with a C, that
12 they are Canadian stations?

13 A That's my understanding, yes.

14 Q And that the 9th station is also a
15 Canadian?

16 A Yes. The 9th, for the record,
17 would be CKSH.

18 Q And the 17th, CBET, that's also a
19 Canadian station?

20 A Yes.

21 Q And so, to the extent this list is
22 accurate, three of the largest -- I should

Neal R. Gross & Co., Inc.
202-234-4433

1 make this very clear. Of the 20 most re-
2 transmitted stations in the United States,
3 three of them are Canadian, it would appear
4 from this document, correct?

5 A Yes.

6 Q And, again, the reason that you
7 did not include Canadian stations in your
8 survey or, excuse me, in your study was
9 because you were under the impression that
10 they weren't compensable based upon what you
11 were told by Marsha Kessler, correct?

12 A Right. And I was also told that
13 they had a relatively small fraction of the
14 Phase 1 program supplier category.

15 Q Did you make that determination
16 yourself, as well?

17 A No, it was represented to me.

18 Q By who?

19 A By counsel.

20 Q And -- but you never confirmed
21 that with numbers of your own?

22 A No, I have not.

Neal R. Gross & Co., Inc.
202-234-4433

Q Okay. Now, you did testify that you found that Canadian broadcasts were over-represented in the IPG stations surveyed, correct?

A I believe what I testified to is, of those programs on the Canadian broadcast, they were disproportionately non-compensable with respect to IPG programs.

Q I misspoke, and you're correct. But when you say non-compensable, what you mean was is they were Canadian broadcasts?

A Right. And that they originated in Canada.

Q So the point being that IPG has a disproportionate number of Canadian broadcasts in the programs it's claiming in this proceeding, correct?

A That originated in Canada. That's my understanding, yes.

Q Now, with regard to the logic of the MPAA methodology, as you say -- well, I shouldn't say that. I was about to say as you

said, but that's why I'm asking the question. It's based on household viewership, correct, as a predictor of market value?

A Correct.

Q And your logic for that is that, from a cable system operator's perspective, the more popular a program is the more subscribers will be attracted to a given cable system; is that correct?

A Right. That program viewership is a measure of underlying subscriber demand and then that, in turn, will lead, greater underlying subscriber demand will lead to greater subscriber retention and attraction, yes.

Q Now, I know that you have some familiarity with past decisions, including one I've given you we've talked about a little bit. Isn't it the case that that concept has been rejected in prior Phase 1 proceedings, including the 1989 proceeding?

MR. MACLEAN: Objection, relevance

from this witness.

CHIEF JUDGE BARNETT: Sustained.

BY MR. BOYDSTON:

Q Are you familiar with the board survey?

A I've heard about it and read about it.

Q Do you have an understanding as to the methodological basis of the board survey?

MR. OLANIRAN: Objection, your Honor. Relevance again.

MR. BOYDSTON: Well, if I may, I'm comparing, I wish to ask him to draw a comparison between his study and the board's study for purposes of elucidating the nature of his study; that's all.

MR. OLANIRAN: Your Honor, Dr. Gray did not testify to the board's survey. It's completely, completely outside of the scope.

MR. BOYDSTON: Well, my argument would be the board survey tries to survey many

of these same things using some things that are similar with this and some things that are different, and that's my goal in my inquiry.

MR. OLANIRAN: You're not asking Dr. Gray about the board's survey. It's just asking, he's asking him about --

MR. BOYDSTON: I can't hear you. I'm sorry.

CHIEF JUDGE BARNETT: I don't want a narrative. Thank you, Mr. Olaniran. It is outside the scope of direct examination, and the objection is sustained.

MR. BOYDSTON: Okay. Thank you, your Honor.

BY MR. BOYDSTON:

Q Are you familiar with the Phase 1 2004 - 2005 decision?

A I've reviewed it at one point in time.

Q Okay. Do you recall that in that decision the decision said that many factors come into a CSO's decision to transmit a

1 station, but, ultimately, the most significant
2 concern is net revenue generation?

3 MR. MACLEAN: Objection,
4 relevance, relevance as to what the decision
5 says.

6 MR. BOYDSTON: I'm trying to get
7 behind, well, I'm trying to get behind what he
8 knows about these things and how they
9 influenced his decision to set up the study
10 the way he set it up.

11 CHIEF JUDGE BARNETT: I'll allow
12 it. Overruled. Go ahead.

13 THE WITNESS: I'm sorry. Can you
14 repeat the question.

15 BY MR. BOYDSTON:

16 Q Yes, I'll come at it from a
17 different angle to be of assistance. I asked
18 you about the underpinnings of your survey,
19 and the first thing we sort of established or
20 agreed upon was that you see viewership as
21 having an important relationship to value to
22 a cable system or operator, right?

Neal R. Gross & Co., Inc.
202-234-4433

1 A That's correct, yes.

2 Q And isn't it the case that in the
3 Phase 1 2004 - 2005 decision, it was
4 acknowledged in that decision that net revenue
5 generation by a CSO is a very important
6 factor, correct?

7 A That's correct.

8 Q And --

9 A And I'd also say that subscriber
10 growth contributes to net revenue
11 maximization.

12 Q Okay. Now, in such familiarity
13 that you have with past decisions by the CRT
14 and the CARP about the use of Nielsen ratings,
15 isn't that true that some decisions have been
16 critical of the usefulness of Nielsen ratings
17 in assigning value to a cable system operator
18 for a particular broadcast?

19 A There have been some prior
20 decisions that were critical, yes.

21 Q I'm going to refer to one in
22 particular, and I'll just read it. It's

Neal R. Gross & Co., Inc.
202-234-4433

1 fairly straightforward. This is from 69
2 Federal Register at 3613 from the 1998 - 1999
3 Phase 1 proceeding. Quote --

4 A So this is also Phase 1?

5 Q This is Phase 1, correct. "The
6 devaluation of the Nielsen study is a result
7 of the panel's consideration of the
8 hypothetical marketplace. Evidence that
9 demonstrated how cable operators valued each
10 program category was, in the panel's view, the
11 best evidence of marketplace value. The
12 Nielsen study was not useful because it
13 measured the wrong thing."

14 Now, were you familiar with that
15 particular viewpoint when you prepared this
16 present study?

17 A Yes, I was.

18 Q Are you aware of any evidence that
19 a cable system operator, that cable system
20 operators, excuse me, consider rankings --
21 excuse me. Let me take a sip of water and
22 start all over again. Are you aware of any

Neal R. Gross & Co., Inc.
202-234-4433

1 evidence that cable system operators consider
2 ratings when making the decision of which
3 broadcast or which stations to license and
4 which not to license?

5 A Well, certainly work that I've
6 done for CSOs in the past, they look very
7 closely at program viewership when negotiating
8 and considering license agreements.

9 Q And describe for us what work
10 you're referring to, generally.

11 A Sure. Actually, it's in the
12 context of both a breach of contract, as well
13 as license negotiations. I was retained on
14 behalf of outside counsel for two separate
15 CSOs, and in both those cases they were in a
16 dispute with a basic cable channel concerning
17 the programming on that channel. And some of
18 the evidence they wanted me to look at was
19 both how the programming changed over time and
20 also how the viewership of those programming
21 actually declined over time, and the CSOs were
22 concerned about the decrease in viewership.

Neal R. Gross & Co., Inc.
202-234-4433

Q Okay. But that was after the fact of the decrease in viewership, correct? That was not a concern of theirs going into purchasing new broadcast --

A But it was part of the negotiations, so they wanted to, as they were negotiating with the basic cable channel, they were showing how viewership is decreasing; so, therefore, we want to lower our fees. So they certainly focused intently on viewership, at least in my limited experience.

Q Okay. If I could ask you to take a look at what's been marked as Exhibit 5 to the rebuttal testimony. I think that's the one on your left.

A This?

Q Yes. And for everyone, the complete information there, that is the IPG rebuttal to the MPAA's direct statement, Exhibit 5.

A I don't see an Exhibit 5 here. Oh, I'm sorry.

Neal R. Gross & Co., Inc.
202-234-4433

Q It's a one-pager, so it sometimes gets lost between the others. And the questions I'm going to ask you about this have to do with the concept of displacement, which you made some comments on in your direct examination, correct?

A Yes, I believe I was answering questions of the judges.

Q Okay. And this chart here is basically setting forth a situation in which you have issues of displacement, and you can see, by way of saying this, I'm essentially asking you a hypothetical. These are styled as two different options presented to a cable system operator. Option one is on top, and option two is on the bottom. And option one, as it says, contains children's programming, and option two contains talk shows for adults. And the Cartoon Network rating gets a 10 for the children's programming and a 20 for the talk show. The re-transmitted station rating gets a 10 for the children's programming and

Neal R. Gross & Co., Inc.
202-234-4433

a 4 for the talk show. I made a mistake. The cartoon rating gets a 20 for the talk show.

Now, you agree, and this is just this model, but under this model the aggregate rating is actually better for option two than option one, even though in option two you have a lower rating on the talk show, correct?

A This is a very simple table, but I'm having a difficult time following. Perhaps it's me. So what do we, I'm trying to figure out what's going on in these columns and rows.

Q Okay.

A So we have option one is -- well, tell me again. Option one is for station --

Q The idea is one is a cable system operator trying to make a choice between licensing either station KAAA in option one or station WBBB in option two. And these are the programs, for the sake of the analogy, that you can, that you're looking at.

A A 20 rating, it's a generous

Neal R. Gross & Co., Inc.
202-234-4433

rating. I'm sorry. Go on.

Q Well, it's a hypothetical. The point is is that, on the one hand, you may choose programming which has a lower rating for certain programming because you want the higher rating for other programming, just like the fact that for a particular time slot you may be choosing something with a lower rating.

A Well, yes. So you're referring to bundling of programs or --

Q Right. Because in these licenses, of course, one chooses a station and gets everything the station is offering. You can't pick a la carte between programs, correct?

A Correct, yes. So, ultimately, CSOs are choosing which signals to re-transmit. And so in order to really dive down at the value of the programming on those stations to the CSOs, you know, one has to do a little bit more sophisticated analysis.

Q And the fact of the matter is is that a CSO may be in a position where they

Neal R. Gross & Co., Inc.
202-234-4433

1 actually would choose to purchase programming,
 2 a station transmission rather, it contains
 3 certain programs that have lower ratings than
 4 competing options because, in total, due to
 5 displacement, the cable system operator is
 6 actually going to get what he feels is a
 7 better product, right? Even though it may
 8 contain lower-rated programs.

9 A That's possible. Then the
 10 question at hand is, you know, what is the
 11 relative market value of each of the
 12 programming. It gets a little complicated
 13 with the bundling, no doubt which I referred
 14 to in my direct testimony.

15 Q Right.

16 JUDGE STRICKLER: Can I interject
 17 a question?

18 MR. BOYDSTON: Yes.

19 JUDGE STRICKLER: You say it gets
 20 more complicated with regard to the bundling.
 21 I appreciate that. And you say you mention
 22 that in your direct testimony. But other than

1 mentioning it, did you incorporate that
 2 bundling difficulty in your analysis or is
 3 your analysis simply based on viewership
 4 alone?

5 THE WITNESS: I would say, with
 6 all due respect, both. And the reason why I
 7 say that -- if you disagree with me, please
 8 tell me and we'll have it out -- is that,
 9 ultimately, we're trying to calculate the
 10 relative market value of the programming and,
 11 therefore, the relative program for IPG versus
 12 MPAA. What we want to do is estimate, you
 13 know, how valuable each particular program
 14 might be to the CSO. So I like to abstract
 15 and say, okay, suppose that they were able to
 16 unbundle in some way --

17 JUDGE STRICKLER: So your
 18 assumption is, when you try to figure out
 19 relative marketplace value, you're looking at
 20 the value of each program unbundled?

21 THE WITNESS: Correct.

22 JUDGE STRICKLER: As if the re-

1 transmitter was, in essence, creating its own
 2 station by iteratively buying the rights to
 3 re-transmit various shows and might go down a
 4 list and say, oh, "Seinfeld," that's the most
 5 popular one, I'll take that one and then,
 6 after that, "Friends" or what have you and
 7 down a list simply to accumulate viewership.
 8 Is that a fair statement as to how you're
 9 looking at it?

10 THE WITNESS: It's a fair
 11 statement in terms of relative value because,
 12 in part -- let me give you another
 13 hypothetical. Imagine you had your programs
 14 that are very valuable, whether it be the
 15 Seinfelds, the what have you, "Jeopardy," for
 16 example, and so forth that people really watch
 17 in distant markets and on that signal in the
 18 middle of the night is some instructional show
 19 that nobody wants and nobody watches, I think
 20 that should be taken into account when
 21 determining the relative market value of the
 22 programming. And that's what my analysis

1 ultimately does. So it does, in a sense,
 2 unbundle, yes. Does that make sense?

3 JUDGE STRICKLER: It does make
 4 sense. If you look at it from the perspective
 5 of the CSO, the CSO wants to maximize
 6 subscribers at the end of the day, not
 7 viewers. Viewers, as you're saying, and
 8 correct me if you disagree, is a good proxy,
 9 viewers is a good proxy for subscribers and
 10 your regression bears that out. But if
 11 viewership is, in some sense, redundant -- and
 12 I may be misstating IPG's position but I'm
 13 trying to understand how you might respond to
 14 it. If viewership is, in some sense,
 15 redundant, which goes to this displacement
 16 point -- when I try to think of this myself,
 17 I think of shows that are somewhat similar
 18 that might be in reruns. I don't know. So
 19 you have, for example, "I Dream of Jeannie"
 20 and "Bewitched," as best as I can recall would
 21 seem to be the same exact show with almost the
 22 same theme music.

1 So if I'm a re-transmitter, I'm a
 2 cable system operator and I want to re-
 3 transmit, I've got "I Dream of Jeannie" and
 4 that gets me 10,000 viewers. If I'm
 5 interested in "Bewitched" or that horribly
 6 boring instructional show that you alluded to
 7 before, "Bewitched" may have 20 times the
 8 viewers of that horrible instruction show, but
 9 it may be the same viewers who you got from "I
 10 Dream of Jeannie," in which case the
 11 viewership doesn't -- and now we get into the
 12 economics of it. It's sort of like it's a
 13 marginal revenue product situation here.
 14 You're looking on the margin, and you're
 15 saying what additional revenue do I get from
 16 adding "Jeannie" to "Bewitched?" It doesn't
 17 matter that it's got a large viewership
 18 because the marginal revenue that it produces,
 19 in terms of subscribers, is zero because
 20 they're already locked in. And I understand
 21 it's a complicated process for a CSO, and we
 22 don't have one in front of us, but wouldn't I,

Neal R. Gross & Co., Inc.
 202-234-4433

1 therefore, want the boring horribly-rated
 2 instructional show which might only give me
 3 another thousand viewers than a thousand more
 4 marginal viewers that, as an economist, you
 5 know what you're looking for is to try and
 6 maximize out the margin, not just to get more
 7 viewers.

8 THE WITNESS: Wonderful question.

9 And the answer is, but the answer is I
 10 wouldn't call viewership a proxy for
 11 subscribers. I would actually call it a
 12 predictor of subscribers, and my analysis
 13 bears that out. And that's the big
 14 difference.

15 So the question at hand, you're
 16 right, is does this instructional show give
 17 any marginal subscribers, and that's why I did
 18 the analysis and referred to it, I guess
 19 that's in Appendix C.1 --

20 JUDGE STRICKLER: Is that the
 21 second analysis in your --

22 THE WITNESS: Correct, yes. And

Neal R. Gross & Co., Inc.
 202-234-4433

1 so the question is, you know, is there
 2 something special about IPG's mix? And I
 3 think this is a more germane topic to Phase 1.
 4 But is there something special about IPG's mix
 5 of what have you, video, computer, and so
 6 forth, that increases, you know, subscribers,
 7 more marginal subscribers, and I just don't
 8 see it.

9 So it really appears to be two
 10 similar groups. And so if that's the case,
 11 insofar as subscribers do predict -- I'm
 12 sorry, not subscribers. Insofar as viewership
 13 does predict subscribers, then a CSO should
 14 want to get those programs that have, within
 15 the program supplier's context, that have
 16 viewership. And that's why I underscored the
 17 sort of homogeneity argument earlier, both
 18 verbally as well as written, is you definitely
 19 want to look for the relationship between
 20 viewership and subscriber and then see if
 21 that's somehow impacted by the different mixes
 22 that the two agencies have, and I just don't

Neal R. Gross & Co., Inc.
 202-234-4433

1 see it. And so, therefore, let's go and look
 2 at viewership insofar as it predicts
 3 subscribers.

4 JUDGE STRICKLER: In your
 5 hypothetical, going back to basic fundamental
 6 principles that you talked about at the start,
 7 willing buyer and willing seller, you're
 8 willing seller is the owner of the copyright,
 9 the syndicator, if you will, perhaps, and the
 10 willing buyer is a hypothetical, it's a
 11 construct that doesn't really exist. It's a
 12 cable system operator buying a la carte shows,
 13 programs, titles, rather than buying the
 14 bundle, because they're, for the most part,
 15 looking at viewership. So it's unrealistic in
 16 that regard, but it's hypothetical, which may
 17 be what ultimately we have to apply is a
 18 hypothetical marketplace.

19 THE WITNESS: Right. And by
 20 definition, we have to apply some form of
 21 hypothetical market, just given the compulsory
 22 license scheme that distorts matters. I agree

Neal R. Gross & Co., Inc.
 202-234-4433

1 with that.

2 JUDGE STRICKLER: But it's not the
3 compulsory license that creates that
4 hypothetical problem. It's the fact that
5 you've got a bundle that gets re-transmitted.
6 It's the market structure, not the fact that
7 there's a statutory license. It's the fact
8 that, in reality, the re-transmitter has to do
9 an all or none, has to buy all or none, not
10 the fact that there's a statutory license.

11 THE WITNESS: Right. Well, the
12 fact that there's a statutory license, I
13 guess, if there wasn't a statutory license,
14 it's unclear what would happen. I agree, in
15 all likelihood, it's the case that it would
16 continue, that somehow the copyright owners
17 would probably sell the right, and this is my
18 guess as an economist, sell the right to re-
19 transmit to those stations who are buying it.
20 And then, you're right, there would be a
21 degree of bundling but which might perturb the
22 incentives, at this point, of the particular

Neal R. Gross & Co., Inc.
202-234-4433

1 buyers in that example.

2 JUDGE STRICKLER: So what you're
3 saying is if you didn't have the compulsory
4 license ex ante, the syndicators would sell
5 the right to re-transmit when the program
6 first airs, so we wouldn't have this sort of
7 problem? But since that apparently doesn't
8 happen, we have to do a hypothetical as to
9 what would happen when the bundle is unbundled
10 --

11 THE WITNESS: Right.

12 JUDGE STRICKLER: -- and you have
13 discrete negotiations?

14 THE WITNESS: Right. And then --
15 I wish we were in Phase 1, quite frankly.

16 CHIEF JUDGE BARNETT: Oh, no,
17 we're not going back.

18 THE WITNESS: Yes. But that's
19 where the, in some sense, the very important
20 bundling is done is with respect to Phase 1.
21 So when you're a, when you're choosing, as a
22 CSO, which signals to re-transmit, you're

Neal R. Gross & Co., Inc.
202-234-4433

1 looking at the sports, whoever else is here,
2 and so forth. But now I have to somehow
3 abstract from that. And so to start talking
4 about talk shows for syndication bundling
5 seems less likely that the CSO is really going
6 to go to, based on CSOs I've worked for in the
7 past, that level of detail of consternation.

8 But ultimately, insofar as we're
9 in Phase 2, it just seems intuitive that,
10 after you check, and it's important to check
11 that there's not some form of marginal
12 contribution difference, let's use this
13 measure of program viewership.

14 JUDGE STRICKLER: That marginal
15 analysis is what's in the second part of your
16 Exhibit C.1?

17 THE WITNESS: Correct. I wish I
18 had a lot more data to look at the margin
19 analysis because it is critical, yes.

20 MR. BOYDSTON: Thank you.

21 BY MR. BOYDSTON:

22 Q And to a couple of those points.

Neal R. Gross & Co., Inc.
202-234-4433

1 Well, first off, it's accurate that higher
2 ratings for re-transmitted stations don't
3 translate into higher ratings for the cable
4 system, do they?

5 A Oh, distant viewing is small, so
6 yes.

7 Q And just as a parallel, do you
8 have any familiarity with ASCAP and BMI
9 distribution systems?

10 A I do. I've consulted for both.

11 Q I thought you might. Obviously,
12 it's kind of a related, it's a related
13 situation because they're also --

14 A Well, they're both performance
15 rights organizations, so I mentioned PROs
16 earlier.

17 Q Right. And they, essentially,
18 operate under a compulsory license type
19 system, correct?

20 A Well, a blanket license really is
21 where I deal with it. In fact, before we have
22 this compulsory license, I suspect we'd be in

Neal R. Gross & Co., Inc.
202-234-4433

1 some form of blanket license. That's what I
2 was kind of hinting at before, but yes.

3 Q And in the distributions under
4 those schemes, they're not based on popularity
5 of the material, of the songs, are they?

6 A Those get so -- I don't -- that's
7 a different ball of wax, quite frankly.

8 Q Well, they're based more on the
9 broadcasts that are made, rather than where
10 they are on the charts, correct? A given
11 song.

12 A Well, people negotiate differently
13 with respect to those, like, for example,
14 sometimes the PROs are interested in just
15 getting the fraction of total revenues for the
16 company that happens to use the songs that are
17 in the repertoire of the PROs. So it's an
18 entirely different market, I think.

19 Q But, most commonly, the basis is
20 not upon, in the music context, the basis is
21 not on popularity, is it? It's on degree of
22 broadcasts. Sometimes, there may be a

Neal R. Gross & Co., Inc.
202-234-4433

1 special, there may be a unique deal like
2 you're referring to; but, most commonly, it's
3 not, the compensation is not based on
4 popularity of a song, is it?

5 A That's a simplification because,
6 ultimately, popularity matters, even when
7 determining blanket licenses, because you are
8 buying the right. It's a blanket license to
9 play any particular song from this large
10 library. But when you value that, it's
11 important to know what's in the library, and
12 you're saying, you know, there are unpopular
13 songs and popular songs. I don't know the
14 difference anymore, but the blanket license
15 fee applies to all of them. So I'm not quite
16 -- it seems completely different to what we're
17 talking about here, but I can grab a cup of
18 coffee and talk all day about it if you want.

19 Q Well, when a copyright owner
20 licenses his material to a station, the
21 license fee is not contingent upon the
22 subsequent ratings, is it? In other words,

Neal R. Gross & Co., Inc.
202-234-4433

1 and I'm not talking about compulsory license
2 situation, I'm talking about I own a TV show
3 and I go to a local station and I say, "I'll
4 sell you ten episodes for a hundred grand,"
5 the deal that's cut is not, "Well, we'll only
6 give you a hundred grand if you get this kind
7 of a rating." That's not the way that
8 business works, is it?

9 A It's typically based on
10 expectations, and then there are often re-
11 negotiations when those expectations are not
12 met and/or cancellations.

13 JUDGE STRICKLER: Are there ever
14 earn-outs or situations where there's a base
15 fee and the license fee can either be higher
16 or a reduction off the base, depending on how
17 the ratings turn out ex post?

18 THE WITNESS: You know, I've never
19 been in that kind of negotiation. I like the
20 way you think. There should be is the answer.
21 I've not been in those type of negotiations,
22 but I defer to someone who has been.

Neal R. Gross & Co., Inc.
202-234-4433

1 BY MR. BOYDSTON:

2 Q Let's discuss the interplay of the
3 data that you have on the local meters and the
4 data that you have from the distant diaries,
5 and we talked about this enough that we both
6 know what each other is talking about when we
7 refer to those, right?

8 A I know what you're now talking
9 about, yes.

10 Q Okay, good. Now, what happens in
11 a -- and, again, in the confines of your
12 study, there's 70 programs or 70 stations, I
13 should say, where stations from your list
14 coincide with stations from Ms. Kessler's
15 list, so that's the local versus distant
16 connection on 70 stations, right?

17 A Correct.

18 Q Okay. Now, what happens if we're
19 dealing with a particular program that
20 doesn't, isn't registered by one of those 70
21 stations on a local meter? Fair enough?

22 A Oh, it's not in the local?

Neal R. Gross & Co., Inc.
202-234-4433

Q Not in the local. Right.

A So it's a program that's not in my random sample?

Q Right, exactly.

A Okay.

Q And then, at the same time, that same program, there are no diaries for it for six months out of the year because the particular dates fall within times outside the sweeps period, right?

A Yes.

Q Now, in that situation, it occurs to me that you don't have a coefficient for local whatsoever and you don't have a coefficient for distant whatsoever. In that situation, for that particular broadcast, how can you make, drive a relationship between local ratings and distant ratings when you have neither one in that particular example? Don't you have to use something from the, something in the 70 to graft onto that?

A Yes, I think you're a little

Neal R. Gross & Co., Inc.
202-234-4433

confused, so let me try and clarify, which is your hypothetical is a program that's not on my random sample, so my entire projections are based upon programming that's within my random sample, the 120 stations per year. So you're referring to a program that might be on station, you know, 203. I do not estimate programming for that station, so it's irrelevant.

Q Right. You used what you develop from the 70 to make a projection on what that program is worth?

A No. If it's not in my random sample of 120 then I will not make any projections for it.

Q Then how do we know what that broadcast is worth under your methodology?

A Well, ultimately it's this: it's because I'm calculating the relative viewership share of IPG and MPAA programming and, therefore, relative royalty share. And I calculate from a random sample what that

Neal R. Gross & Co., Inc.
202-234-4433

relative share is, and that's for approximately 120 stations per year. So in any given year, I calculate the percentage. Say it's 99.80 percent. That's applied then -

-

Q Across the board.

A -- across the board because that winds up being the royalty share allocation.

Q But that means -- and it's not 125. It's really 70 stations, right?

A No, it's 120 stations.

Q Well, but I thought there were only 70 stations where you have data, where you have an interconnection between the two databases.

A Again, I make projections for, I give estimates of distant viewing for shows on approximately 120 stations each year, 2000, 2001, 2002, 2003, seven days a week, 24 hours a day, every year. And so it is that estimate of distant viewing that goes into the calculation of overall viewership shares and

Neal R. Gross & Co., Inc.
202-234-4433

royalty shares.

Q Even in that case then, what you're basically doing is you're taking 125 stations and you're grafting the circumstances from that as between IPG and MPAA across everything outside of those 125 stations, correct?

A Yes. That's why it's critical that they're randomly chose.

Q Now, the IPG approach says, rather than take 125 stations and, from that, extrapolate it onto everything else, takes up to 200 - 230 stations, which then is comprising a vast majority of all programming. In fact, some 17,000 individual programs versus 3,000 something in --

MR. MACLEAN: Objection. Counsel is testifying.

MR. BOYDSTON: I'm giving, I'm giving him a hypothetical. I'm asking him to confirm that this is his testimony. I'll start all over if you want and then --

Neal R. Gross & Co., Inc.
202-234-4433

CHIEF JUDGE BARNETT: Start all over.

MR. BOYDSTON: Sure.

CHIEF JUDGE BARNETT: Sustained. Ask the question, Mr. Boydston.

BY MR. BOYDSTON:

Q Is it not the case that -- scratch that. Why extrapolate across the board off 125 stations when you could extrapolate across the board using 230 stations, which comprise 90 percent of all programs?

A Because of the 10 percent of programs.

Q Yes, but in the 125 example you're only talking about some 3,000 programs versus 17,000 programs. So what about those other 14,000 programs that are picked up when you have 225 or 230?

A Well, I don't necessarily agree with you on the program count. We can talk about that later. But the key, and I've tried to underscore it, maybe I didn't sufficiently

Neal R. Gross & Co., Inc.
202-234-4433

enough, is the word random. I'll pause for effect. It's critical that the sample is randomly chosen. That's the only way to make statistically valid inferences and projections outside the sample. And so my 120-plus stations per year are randomly chosen, and then, ultimately, then I get my overall royalty share that is validly applicable outside those stations.

Q However, you still end up using the Kessler stations, which are not random, which brings an element of randomness into your approach which then you try to remedy by looking at the quartiles of the Kessler selection, correct?

JUDGE STRICKLER: You mean that brings in an element of non-randomness.

MR. BOYDSTON: Thank you.

THE WITNESS: I debated whether or not to correct you.

MR. BOYDSTON: I appreciate that.

THE WITNESS: Well, as I testified

Neal R. Gross & Co., Inc.
202-234-4433

before, that's why I was very careful and ran lots of tests to check on the impact of using the diary information from the Kessler sample.

BY MR. BOYDSTON:

Q And those quartile tests, we're talking about a quartile of the Kessler stations, correct?

A Correct, yes.

Q And so we're talking about a low of 20 and a high of maybe 25 stations in those quartile tests, correct?

A Right. With perhaps two-hundred fifty, three-hundred thousand quarter hour of broadcasts, which is a lot of data.

Q Well, but it's only 20 or 25 stations, and we're dealing with a population here of about 900-plus stations, correct?

A Again, the question at hand is, as you sort of use stations with very different levels of distant subscribers, is there a material impact on the estimate of the relationship between local ratings and distant

Neal R. Gross & Co., Inc.
202-234-4433

viewing and other factors? And I didn't see it. And as an econometrician, I didn't have any concern, or I should say it eased concerns that I did have with confusing --

Q I, I --

A Allow me to finish, please. With respect to using the distant viewer data.

Q But if the answer is yes to my question, I believe, that means these quartiles or 20 to 25 stations to check the ability to make a prediction or a value that spreads over 900 stations. True or false, those are the numbers involved?

A Again, that's why I tried to finish is --

Q Is the answer no?

A No, the answer is I'm using those to look at the specification of the regression. And so I'm not using the quartiles to make predictions. I'm using them to test the reasonableness and the robustness of the regression, and I found the regression

Neal R. Gross & Co., Inc.
202-234-4433

1 model to be robust with the exception of WGN,
2 and that's the very reason why I had a
3 separate regression run for WGN. So I was
4 very cognizant of the issues associated with
5 the Kessler sample and took steps to make sure
6 it was not a concern.

7 I even looked at the lower decile,
8 too, if you want to make the sample even
9 smaller. That might, you know, raise concern
10 on your part, but I think one has to look at
11 these things.

12 Q But you don't quarrel factually
13 with the numbers I'm talking about when I say
14 20 to 25 and 900?

15 A Well, those are numbers, but I
16 don't see the relevance of them.

17 Q Okay.

18 A I quarrel with relevance, I
19 suppose.

20 Q Now, Nielsen data does not
21 distinguish demographic groups, does it?

22 A No, it does not. I should say not

Neal R. Gross & Co., Inc.
202-234-4433

1 the data that I receive with respect to the
2 diary. Other Nielsen data does.

3 Q And isn't it true that, for
4 advertising purposes, demographics are an
5 important aspect of what advertising rates
6 are, correct?

7 A Yes.

8 Q And, in fact, ratings are only
9 significant to the extent of the demographic
10 which they are representing, correct? Or
11 advertising --

12 A Yes, advertising --

13 Q I am.

14 A Yes. And, actually, advertising
15 revenue is of concern directly to CSOs, as
16 well. But I think the subscriber count,
17 perhaps, is more important.

18 Q And wasn't this -- well, let me,
19 I'm going to read a small section from you
20 here from the 1989 decision. It's 57 Fed Reg
21 at 15.301. "The Nielsen study improved the
22 analyses greatly and gave the 1983 Tribunal

Neal R. Gross & Co., Inc.
202-234-4433

1 what it calls it's starting point. Why was it
2 only a starting point and not the final
3 answer? Because we recognized that viewing,
4 per se, did not necessarily correspond to
5 marketplace value. Even in the broadcast
6 industry which relies heavily on viewing data,
7 ratings do not precisely predict value because
8 the viewers' age, income, and other
9 demographics. However, in the cable industry,
10 viewing is even a lesser predictor of value,
11 as discussed earlier. Cable's goal is to
12 attract and retain subscribers and will offer
13 niche services, often unrelated to the volume
14 of viewing, to induce segments of the
15 population to subscribe."

16 Now, based on that logic in that
17 quotation and what we were just talking about,
18 doesn't that raise serious questions as to the
19 impact of ratings on determining value?

20 A What I would say, based upon in my
21 listening to that quote, that quote says please
22 run regression and put it in Appendix C.2.

Neal R. Gross & Co., Inc.
202-234-4433

1 Q Please do your study.

2 A But yes.

3 Q Although it's certainly critical
4 of a focus on viewership to determine value,
5 correct?

6 A Well, it said it's a starting
7 point, and it said you should certainly take,
8 you know, look at subscribers. And it also
9 referenced broadcast issues, as well, which
10 may or may not be relevant.

11 JUDGE STRICKLER: Counsel, just
12 before you go on, we got onto the topic of
13 advertising revenue for a moment. I don't
14 want to lose the point because I have a
15 question, and I don't know if this witness has
16 the answer for me. But do CSOs sell
17 advertising time or receive advertising
18 revenue for re-transmitted stations?

19 THE WITNESS: Actually, my
20 understanding is it might cannibalize some of
21 the advertising revenues they get on other
22 stations they carry. My understanding is that

Neal R. Gross & Co., Inc.
202-234-4433

1 they do not, but I should say that's my
2 understanding. I'm not an expert with respect
3 to how the advertising revenue from digitally
4 re-transmitted programs --

5 JUDGE STRICKLER: It's your
6 understanding that, for example, if WPIX out
7 of New York was re-transmitted out to Los
8 Angeles, that there's no new advertising that
9 shows up in Los Angeles. It's the same
10 advertising that was showing up in WPIX in New
11 York?

12 THE WITNESS: Correct. That's my
13 understanding.

14 BY MR. BOYDSTON:

15 Q How did you decide how many
16 stations to use in this MPAA study?

17 A I was actually debating. There
18 was a balance between more is better and cost,
19 and I was estimating that 120, just based upon
20 some calculations that I did well over a year
21 ago, would likely yield relatively precise
22 estimates. But whenever you choose a sample

Neal R. Gross & Co., Inc.
202-234-4433

1 size, I tell clients time and time again it's
2 more of an art sometimes than science. So you
3 don't know how precise it's going to be until
4 you get the data, and, well, actually, I'm
5 suspecting that 100 or 120 should be
6 sufficient to give me a 95-percent confidence
7 interval with a couple-point swings is what I
8 estimated based upon some prior information
9 that I had.

10 Q And what was the prior
11 information?

12 A I think it was information from,
13 you know, prior studies.

14 Q Prior MPAA studies?

15 A Yes, correct. So, yes, it really
16 just had to do with what, historically, what's
17 the MPAA's share of viewing and, therefore,
18 what fraction, what percentage am I likely to
19 get in this study; and, therefore, how many
20 samples do I need in order to have a
21 reasonably tight confidence interval with
22 respect to that?

Neal R. Gross & Co., Inc.
202-234-4433

1 Q Just to use a number to work with,
2 I think in your testimony you were critical of
3 IPG in terms of its station population. And
4 as I recall in that critique, I think you
5 identified approximately the number of Form 3
6 stations during this time period of 2000 -
7 2003. Does that sound familiar? Was it fair
8 to say it's something on the order of 900
9 stations during this time period?

10 A I don't recall being critical of
11 the number of stations they selected. I was
12 critical of how they selected the stations.

13 Q Fair enough. That's not really
14 where I'm going. Where I'm going is can we
15 agree that the number of Form 3 re-transmitted
16 stations at issue during this time period was
17 about 900 or 900 and change?

18 A That's my recollection, yes.

19 Q Mine, too, for what it's worth.
20 Now, you referred to coming, you know, using
21 prior studies, prior MPAA studies to come up
22 with your number of stations in this study.

Neal R. Gross & Co., Inc.
202-234-4433

1 Do you recall the number of stations the MPAA
2 was using in the 1983 proceedings? I don't
3 want to play 20 questions. Let me represent
4 to you that it was 117. Does that sound
5 somewhere within the ballpark?

6 A That's my vague recollection, yes.

7 Q Now, at that time, do you have a
8 sense as to what the population of re-
9 transmitted stations was at that time?

10 A Sitting here today, I don't
11 recall.

12 Q Okay. Would 600 some-odd stations
13 sound about right?

14 A It could be right. I'd want to
15 check. As far as this is on the record, I
16 would say I don't exactly recall.

17 Q Fair enough. I'll represent to
18 you, for what it's worth, that it was. If I'm
19 wrong, someone will point it out, I know. So
20 the difference in stations is something on the
21 order of 50 percent, 600 and something to 900
22 something, between the '83 MPAA study and the

Neal R. Gross & Co., Inc.
202-234-4433

1 current time period of the MPAA study. Yet,
2 the number of stations is only a few more.
3 Instead of 117, you've got 125. Did you take
4 that sort of thing into consideration?
5 Because it seems to me if you had you would
6 have picked more stations than 125 is the
7 point.

8 A No, this is one of those nuances
9 of sampling is that, as the population gets
10 larger and larger, your necessary sample size
11 in order to get the same confidence interval
12 does not change by very much.

13 Q Well, do you recall -- I'll read
14 you a brief quote from the '83 cable
15 proceedings decision. It says that the MPAA
16 "conceded that its study, which used 117
17 stations, cannot be perfectly projected to the
18 other stations, even for Phase 1 purposes,"
19 suggesting that 117 was too few. If 117 was
20 too few at 600-something stations, wouldn't
21 125 be too few at 900 stations?

22 A I'd have to see the context of the

Neal R. Gross & Co., Inc.
202-234-4433

1 quote. I suspect they're saying 117 can't be
2 projected from because it was non-randomly
3 chosen, but I'd have to see the context of the
4 quote. If it was randomly chosen, there's a
5 good chance that you could project to the
6 other 600. In fact, I certainly could have.

7 Q What if it was randomly chosen?

8 A Again, that's, that was my -- I
9 just answered that.

10 Q Sorry. You're right. Now, I'm
11 going to ask you, and, if you remember, great,
12 if you don't -- I just want to get a sense
13 from you, I'm bandying about the number of
14 stations, the number Nielsen diary stations
15 for the various years, and I'll read these to
16 you and just tell me if you think they're out
17 of whack. But I think they've been
18 documented, but is it not the case that in
19 2000 the Nielsen diary stations sampled were
20 81, in 2001 it was 99, 2002 it was 122. And
21 then in 2003, that's when it reached its high
22 point of 125; is that correct?

Neal R. Gross & Co., Inc.
202-234-4433

1 A It sounds like you're referring
2 now to the Kessler sample of --

3 Q Yes, you're right. This is the
4 Nielsen diary stations --

5 A Yes, that sounds just about right
6 for the Kessler sample.

7 Q Do you think it's a mistake to
8 continue to use fewer, you know -- and I'm
9 focusing on the Kessler set now but I think it
10 applies somewhat to the set of yours, as well.
11 Don't you think it's an error to be using
12 another station that's less than the MPAA has
13 been criticized for in the past, on past
14 studies? In other words, to the extent that
15 the MPAA has been criticized in the past for
16 a number of studies being used, and then it
17 goes forward using less than that, isn't that
18 a problem?

19 A Not necessarily. I think a big
20 criticism, you know, with all due respect to
21 Kessler's sampling strategy, you know -- I'm
22 saying the same thing over and over again. I

Neal R. Gross & Co., Inc.
202-234-4433

1 apologize for those of you up here and over
2 here. The big criticism I have from the
3 Kessler study is it's not randomly chosen.
4 The fact that she went from 80 to 130, I'd
5 much rather have 80 randomly chosen every
6 single year than 200 non-randomly chosen.

7 JUDGE STRICKLER: A question in
8 that regard, in regard to the Kessler non-
9 random sample. When you found out what the
10 sample was and how it was constructed, that is
11 not randomly, before you figured out how you
12 could go about ameliorating the problems with
13 that, as you've already testified to, did you
14 go back to MPAA and say, "This isn't really
15 what you should be doing. You really need to
16 do a random sampling. Why don't you go sample
17 again?" before you went ahead to try to fix
18 it?

19 THE WITNESS: Well, actually, what
20 they said, quite frankly, you know -- this
21 isn't closed door so I'm trying to decide how
22 much to say. But they said, "Well, you know,

Neal R. Gross & Co., Inc.
202-234-4433

1 it captures," I can't remember, "70 to 80
2 percent, you know, or maybe more. Can't you
3 just say that that's enough?" and the number
4 of times I said, no, you can't, like I'm doing
5 today, they finally said, okay, what else can
6 we do?

7 So you're saying why didn't we go
8 back and do another diary data. Is that your
9 question?

10 JUDGE STRICKLER: Well, yes, but
11 you said something, and I'm trying to figure
12 out exactly what you meant when you said when
13 it was behind closed doors, so I want to
14 figure out how much I actually want to tell
15 you. I want you to tell me everything. So
16 why didn't you tell me it was said behind
17 closed doors if you were editing your answer?

18 THE WITNESS: Oh, no, I wasn't
19 really editing the answer, other than they
20 were encouraging, they were really encouraging
21 me to try to use the Kessler sample and not
22 necessarily go on, you know, and get this

Neal R. Gross & Co., Inc.
202-234-4433

1 local ratings sample that's randomly chosen.

2 And I said that that really helps
3 solve two things. One is, you know, the
4 interpolations we could talk about was done in
5 1989, and it made my head spin when I read
6 about it. So that needed to be improved, and
7 you could do that with the local ratings data.
8 Insofar as there's statistically significant
9 correlation, and this was at high north, I
10 said then I might be able to mop up and use
11 this Kessler data. I said I'm not sure but
12 there's a good chance I'll be able to.

13 JUDGE STRICKLER: Did they tell
14 you behind closed doors why it was that they
15 wanted to continue to use the Kessler study
16 after you explained to them that the non-
17 randomness was a problem?

18 THE WITNESS: Well, I inferred it
19 was cost. I don't think they said that, but,
20 you know, I inferred that they didn't
21 necessarily want to go back to Nielsen and get
22 a bunch of local ratings data because I don't

Neal R. Gross & Co., Inc.
202-234-4433

1 know what Nielsen charges, but I'm sure it's
2 non-zero. So I suspect it -- I didn't ask
3 that.

4 JUDGE STRICKLER: You inferred
5 that. Nobody implied that? Well, I don't
6 mean by the cost, but, I mean, you say it was
7 a cost function. I don't mean to make light
8 of it. You inferred that, but was there
9 anything said as to why they wanted to keep
10 the Kessler non-random sample in the analysis?
11 You inferred it was cost. Was there anything
12 said explicitly?

13 THE WITNESS: Nothing said
14 explicitly. They were just, you know, kind of
15 pushing me to use it, and I said that, you
16 know, you can push somebody else, if you will,
17 so . . .

18 JUDGE STRICKLER: Who pushed you?

19 THE WITNESS: Well, not a push.

20 JUDGE STRICKLER: I don't mean it
21 in the aggressive sense, but who was it that
22 was urging you? Was it Ms. Kessler herself?

Neal R. Gross & Co., Inc.
202-234-4433

1 THE WITNESS: No.

2 JUDGE STRICKLER: Do you recall
3 who it was?

4 THE WITNESS: I feel like I'm
5 being cross-examined, but I suppose I am. No,
6 ultimately, it was actually, counsel for MPAA
7 was saying, you know, can you use this, and so
8 it wasn't really a push. And I just said, no,
9 I can't, not without additional data. So,
10 yes, no one from MPAA actually was twisting my
11 arm, but, based upon the back and forth, I
12 presumed, you know, either it was time or
13 money that they didn't want to go out and get
14 more data.

15 JUDGE STRICKLER: But whatever the
16 reasons, no one at MPAA, counsel or otherwise,
17 had said why it was --

18 THE WITNESS: Oh, no, I don't have
19 any dirty dark secrets. I apologize.

20 BY MR. BOYDSTON:

21 Q Given the answers you just gave
22 and given the fact that yesterday, when asked

Neal R. Gross & Co., Inc.
202-234-4433

1 who the architect of this study was, Ms.
 2 Kessler said, "I believe his name is Carson,"
 3 a man who's since passed away, would you
 4 change your answer at all to the question as
 5 to who designed this study?

6 A Which study are you referring to
 7 now?

8 Q This study, the one you called
 9 your study.

10 A Yes. No, it's my study. I didn't
 11 talk to Mr. Carston you said?

12 Q Well, he's deceased now, I
 13 understand.

14 A Yes. Well, I didn't talk to him
 15 pre- or post-deceased.

16 Q Isn't it accurate, isn't it
 17 accurate that sampling fewer stations means
 18 that fewer programs are accorded royalties
 19 under the MPAA methodology?

20 A I would think not now. I don't
 21 think that's accurate. Again, we're
 22 calculating shares.

1 Q Well, you've analyzed the IPG
 2 study, correct?

3 A I've reviewed the IPG study, yes.

4 Q Would you disagree with me that
 5 the IPG study, for all its problems according
 6 to you, does accord royalties and does justify
 7 the payment of royalties on more programs than
 8 the MPAA methodology does?

9 A I'm not aware of that. You know,
 10 there's nothing -- I'm familiar with the
 11 actual payment of royalties. My understanding
 12 is we're calculating the royalty shares
 13 attributable.

14 Q That's a better word, yes. I
 15 apologize. My nomenclature was off. I'll try
 16 it again.

17 A And so, for example, my
 18 understanding is, you know, the titles that
 19 comprise MPAA's viewing share is not going to
 20 be all the titles that receive payment for
 21 their re-transmissions for those copyrighted
 22 or, sorry, yes, copyrighted materials.

1 Q Do you disagree, would you
 2 disagree with the proposition that the number
 3 of different programs encompassed by the
 4 stations covered by the IPG list of stations
 5 of 200 to 235 is multiple times as many
 6 stations as are encompassed by these stations
 7 in the MPAA study?

8 A I would disagree with that
 9 premise.

10 Q Okay. Have you done a calculation
 11 as far as that goes?

12 A Yes, I have.

13 Q And what is your conclusion in
 14 that regard?

15 A If you look at MPAA and IPG
 16 compensable programming, you'll see that 120
 17 random stations actually have more MPAA and
 18 IPG compensable programming per year than does
 19 the 200-plus stations in the IPG sample.

20 Q Okay. Now, isn't it true that, in
 21 2003, your various worksheets reflect the fact
 22 that you actually started with 128 stations,

1 not 125 stations and that three were knocked
 2 off because they had 100-percent zero viewing?
 3 Does that ring a bell?

4 A No, it does not.

5 Q Do you recall that in the 2002
 6 diary sample, the Nielsen data that was
 7 produced included five stations with 100-
 8 percent zero viewing? Do you recall that?

9 A I recall that there was, we did
 10 have some stations that might have been non-
 11 commercial stations, but I would have to go
 12 and double-check.

13 Q Did you run any analysis in order
 14 to determine the existence of zero-viewing
 15 data that you relied on for the MPAA viewer
 16 study?

17 A By zero viewing, you mean non-
 18 recorded viewing in the Nielsen diary data?

19 Q Correct.

20 A Yes, I have absolutely no problem
 21 with the instances of zero viewing or non-
 22 recorded viewing in the Nielsen diary data,

1 and that's the big reason why I did a
2 regression analysis to predict viewing.

3 Q I appreciate that. My question
4 was just slightly a little bit different,
5 which was did you run an analysis of the
6 amount of zero viewing? I understand you have
7 a problem with it. That's not the question.
8 The question is did you run an analysis to
9 determine how much of it there was?

10 A I don't know if I looked at the
11 number of zeros, per se, but certainly spent
12 a lot of time sort of rolling up my sleeves
13 and looking at the data. It's one reason why,
14 you know, the particular regression
15 specification I chose was chosen in order to
16 take into consideration the instances of
17 zeros.

18 Q And I apologize. It may just be
19 my fatigue at the moment. So was that a yes
20 or a no or is it neither? Did you run an
21 analysis to --

22 A Well, the answer was no Nielsen,

1 per se, in terms of counting the number of
2 zeros.

3 Q Okay.

4 A However, I did analyze just the
5 whole pattern of distant viewing in the
6 Nielsen diary data, and one of the reasons why
7 I chose the regression specification that I
8 did had to do with the number of zeros in
9 terms of reviewing. But that's some --

10 Q Got it. For my simple point, no,
11 you didn't do a tabulation or a calculation of
12 how much the reviewing was going on, correct?

13 A Sometimes, yeses and nos don't
14 quite cut it.

15 Q Well, yes, sometimes they do. Did
16 you do that or not? I've asked you five
17 times, and you're not really telling me. I
18 just want to know did you actually do it or
19 you didn't. If you didn't, fair enough.

20 A Well, that's why I was trying to
21 answer lucidly, and I suppose I didn't, which
22 is this: I definitely looked at the pattern of

1 distant viewing, and so I would have noticed -
2 - I don't know if I counted the exact number
3 of zeros, but there's certainly a lot of zero
4 or non-recorded viewing, and that's one
5 reason, you know, that we ran the, not just
6 multiple regression analysis but Poisson
7 regression analysis, yes.

8 Q So we know from the prior decision
9 that the 1997 proceedings, decision of 2001,
10 September, said if the MPAA is going to
11 continue to go down this path, it needs to
12 bring zero viewing into line, and, yet, you
13 never calculated the incidents, the amount,
14 the number of zero viewing instances in these
15 years, correct?

16 A Again, let me --

17 MR. MACLEAN: Objection,
18 mischaracterization of the decision. And at
19 any rate, that's asking for a legal opinion.

20 MR. BOYDSTON: Well, it's not a
21 mischaracterization of the opinion.

22 CHIEF JUDGE BARNETT: It's been

1 asked and answered.

2 MR. BOYDSTON: Very well.

3 BY MR. BOYDSTON:

4 Q I may have covered this
5 previously. If I did, I apologize. Sometimes
6 the witnesses run together a tad. Do you
7 recall that in the 1997 decision it was found
8 that the aggregate of zero viewing equaled 73
9 percent?

10 A That could well be.

11 Q Okay. And I mentioned before that
12 that decision directed the MPAA to reduce the
13 incidence of zero viewing. All things aside,
14 do you have a recollection of that or not?

15 A I don't have a recollection of
16 that, no.

17 Q Okay. So as far as you knew,
18 there was no directive to the MPAA to decrease
19 the incidence of zero viewing, correct?

20 A I'd hope the directive would be to
21 address the issues, and that's one thing that
22 I do with my chosen regression specification.

Q Well, I'll read you a short sentence from the '97 decision, "In the future, if the MPAA is going to use Nielsen ratings, it must reduce the incidence of zero viewing or provide an acceptable explanation for the high incidence of zero viewing." Does that sound familiar to you or no?

A Well, I love the second part of that, though. I'd be happy to talk about an acceptable reason for the zeros.

Q I understand. The question is just were you familiar with that directive overall?

A I got excited about the second part. They said something nice. I'm sorry. The question is am I familiar with that?

Q Yes, were you familiar with that directive in that decision?

A I read that sometime ago, yes.

Q Okay.

JUDGE STRICKLER: Which decision? Can you give us the cite on that again,

please?

MR. BOYDSTON: Yes. That's the September 2001 order in the 1997 proceedings.

JUDGE STRICKLER: Do you have the Federal Register cite?

MR. BOYDSTON: I do not have it at this time. I will give it to you right after the break; how about that?

JUDGE STRICKLER: If you have it. Otherwise, I can get it, but thank you.

MR. BOYDSTON: I'll get it. I just, under the gun at the moment, I don't have it.

BY MR. BOYDSTON:

Q Did you make any efforts in this study to try to reduce -- and I understand your opinion zero viewing, I understand it doesn't bother you, and I understand you have no problem with it, so I'm not asking you about that. My question is simply did you do anything in your study to try to reduce the incidence of zero viewing, or are you aware of

whether or not Nielsen did anything to do that?

A Well, I did definitely. And that's this: you know, the regression specification results that I described earlier, let me give you some of the findings because, again, I am estimating with my regression distant viewing on a program-by-program basis so I can now tell you how often I have zero viewing. I can tell you this: in over 99-percent of the programs in my random sample there were multiple houses predicted to have distant viewing. So I would say distant viewing has decreased to less than one percent, based upon my analysis.

JUDGE STRICKLER: What has been reduced to less than one percent?

THE WITNESS: Oh, instances of zero distant viewing.

JUDGE FEDER: Excuse me. Instances by program, by station?

THE WITNESS: By program.

Actually, specific, to be technical, by quarter-hour of program, but that would be by program, as well.

JUDGE FEDER: Thank you.

JUDGE STRICKLER: What did you say the incidence was of zero viewing in your study?

THE WITNESS: I can tell you that this part, it's more than 99 percent or multiple. It's multiple households. The actual zeros, it's less than half percent. I can get that calculation for you.

MR. BOYDSTON: Judge Strickler, I have that citation. 66 Fed Reg 66449. It's at the bottom of the middle column.

JUDGE STRICKLER: Thank you.

MS. PLOVNICK: Your Honor, if I may, that decision was actually admitted as a preliminary hearing exhibit. It's number was 306, and it's vacation was admitted as Exhibit 307, so you should have copies in the record.

JUDGE STRICKLER: Thank you.

BY MR. BOYDSTON:

Q You've reviewed the testimony of Mr. Galaz, and I don't know if I asked you this before: did you also review the testimony of Laura Robinson?

A Yes, I have, both of them.

Q Do you have any disagreement with the representations in those testimonies that the 2000 - 2003 Nielsen diary data aggregate zero viewing ranged between 78 percent and 82 percent?

A Again, yes, that's for the Nielsen diary data including both compensable and non-compensable programming, so that is including programming that is not at issue in this proceeding.

Q But the answer is you don't have an issue with --

A I don't have an issue with it. The only issue I have would be with the relevancy, I suppose.

Q Do you have any -- do you disagree

Neal R. Gross & Co., Inc.
202-234-4433

that the range of zero viewing for stations in the MPAA viewer study was between less than one percent and as much as 99.9 percent?

A I'm sorry. Can you repeat that question?

Q Yes, sure. That the range of zero viewing incidences amongst the stations in the MPAA study went from as low as one percent to as high as 99.9 percent.

A Yes, I'm not sure how that's been calculated, so I'd have to -- by the MPAA study, are you referring to the Nielsen data now?

Q Yes. The stations used in the MPAA study from Nielsen, correct.

A Yes, because there's confusion with respect to what you're calling the MPAA study. You're often pointing to the Kessler samples, so it sounds like -- are you now pointing to the Kessler sample?

Q My apologies. Yes, it would be the Kessler sample.

Neal R. Gross & Co., Inc.
202-234-4433

A I'd have to double-check. I know that there are instances in the Kessler sample where she has stations with almost 100-percent zero viewing that are not in my sample. I think you might have referred to some of those earlier. So, again, I think it's important to focus on the approximately 120 random selected stations each year.

Q To the extent --

A That's what my conclusions ultimately are based on.

Q To the extent that the incidence of zero viewing found in the MPAA study or the MPAA stations from Nielsen were, excuse me, 73 percent in the 1997 proceeding and for the years in this proceeding are 78 percent to 82 percent, it would seem a simple matter of acknowledging the numbers that the incidence of zero viewing in these years is higher than that for the '97 proceeding, correct?

A No. Again, two things. Number one is your statistics are referring to

Neal R. Gross & Co., Inc.
202-234-4433

programming that's not at issue in this proceeding is my understanding. And, secondly, most importantly, you know, if you read back the quote you gave me earlier, we took steps to address the instances of zero recorded viewer.

Q But those steps were taken by you after you received the Nielsen information, correct?

A That's correct, too, yes.

Q And the Nielsen information itself did have those incidences of zero viewing we're talking about, up to 82 percent in this proceeding and 73 percent in the prior? And I know that you did things to them after that. I'm not asking about that. I'm asking about what came out of Nielsen was in those numbers, correct?

A I had a fewer, as I recall, I had a fewer percentage of incidences of zero or non-recorded viewing in my samples. I don't recall the exact numbers.

Neal R. Gross & Co., Inc.
202-234-4433

Q Okay. Well, were you aware of what those numbers were in the Kessler sample?

A I don't see the relevance.

Q Well, that's kind of for everybody else to decide. Do you know what those numbers were was the question, not whether you think they're relevant.

A Oh, I don't, you know, disagree with your representation.

Q That the incidence of zero viewing in the Nielsen numbers for these years is higher than it was for the '97 year, correct?

A Right. And, again, to me, that's data that I don't rely upon in my testimony.

JUDGE STRICKLER: If I may, I have a question with regard to that. So you're acknowledging that 78 to 82 percent of the Nielsen figures show zero viewing, and you said that included compensable programming in this proceeding and certain non-compensable, and the non-compensables would be because it was local or network or Canadian or Mexican,

and they didn't qualify. What part of that, if you know, what part of that 78 to 82 percent for the Nielsen survey that showed zero viewership was out of the compensable category and what part of it was out of the non-compensable category?

THE WITNESS: I could determine that. I don't know sitting here.

JUDGE STRICKLER: Could determine it.

THE WITNESS: Yes, I could --

JUDGE STRICKLER: How would you determine it?

THE WITNESS: Oh, with the data. So in the data, all their statistics are based upon, you know, the raw Kessler diary data, and so I'd restrict that down to the compensable programming and calculate the zeros.

JUDGE STRICKLER: You know the 78 to 82 percent includes both, but the allocation that's between compensable and non-

compensable is not something that you know sitting here today?

THE WITNESS: Not sitting here today, no.

JUDGE STRICKLER: When you found out about the existence of the zero viewing, was it important to you to be able to distinguish what portion of it came out of the compensable programming and what portion of it came out of the non-compensable programming?

THE WITNESS: Often, not particularly because I'm just focusing on the compensable programming category. You know, the zero viewing, let me do a little analogy. I want to make sure we're all on the same page.

And this is the way I think of what Nielsen is up to is imagine, if you will, you want to know how many people in the U.S. are left-handed, and so you can go to four, five different cities and randomly select four people and say, "Are you left-handed?" In

four of those studies, the four people you randomly select are not left-handed. They're all right-handed. Not a shock. But then one city, Chicago perhaps, two of the four are left-handed.

And so what happens is in the aggregate you have 2 out of 20, which is 10 percent. That's about what you see in terms of left-handedness in the U.S. as a whole. And there's this focus and focus on you have four out of five cities where there's no left-handed people.

Two things. There are left-handed people in those four cities. They're just not in the sample. So it's very important what Nielsen, I think, says -- I wish I listened to Paul Lindstrom, he probably would be more eloquent than I am -- is it's critical to aggregate up the information before you draw inferences and conclusions. So if you aggregate up this little hypothetical into the 20 people, you get 10 percent; or you can run

1 regressions and predict in every single city
2 what fraction of people are left-handed and
3 you'll predict around 10 percent in every
4 city.

5 So to answer your question in a
6 very long-winded way, and I apologize for
7 that, was I concerned about the instances of
8 zero viewing? No, because distant viewing is
9 something that, it's relatively light and
10 unusual. I don't know if I've ever actually
11 done it.

12 And so it's no surprise at all,
13 given the number of choices, how often we see
14 televisions not tuned to these programs. But
15 that's one of the reasons I did the Poisson
16 regression is to acknowledge that it's sort of
17 right skewed for lots of people in that tail.

18 CHIEF JUDGE BARNETT: On that
19 happy note, we're going to take our afternoon
20 recess, 15 minutes.

21 (Whereupon, the foregoing matter
22 went off the record at 2:52 p.m. and went back

1 on the record at 3:12 p.m.)

2 CHIEF JUDGE BARNETT: Mr.
3 Boydston?

4 MR. BOYDSTON: Thank you, Your
5 Honor.

6 BY MR. BOYDSTON:

7 Q In our discussions about zero
8 viewing, you stated in response to one of my
9 questions that in your final analysis you only
10 detected zero viewing at one percent of the
11 time. Or you only -- you only had detected or
12 assigned zero viewing at one percent. Do you
13 recall that?

14 A For less than one percent.

15 Q For less than one percent. Now --

16 A Of quarter-hour -- of broadcasts
17 on a quarter-hour basis I should say, but yes.

18 Q Okay. Now, to the extent that the
19 raw Nielsen data for the four to six months
20 during this time period ranged from 78 to 82
21 percent, for four months that we knew about,
22 and your regression analysis was going back to

1 fill in the blanks for the eight to -- for I
2 guess six to eight months we don't know about,
3 how do you get something so low as less than
4 one percent if we know during four months it's
5 as high as 82 percent?

6 And, I mean, and I'll just give
7 you -- and this is my simple math, and you can
8 give me the more complex math. If you've got
9 -- I'll just, you know, 78 to 82, I'll say 80.
10 It's also handy because it's a round number.

11 If we know from the Nielsen data
12 that for four months out of the year we got 80
13 percent zero viewing incidences, let's say
14 that in your regression analysis for the other
15 eight, you determine there is zero viewing,
16 well, that would mean that for eight months
17 you have zero zero viewing, and for four
18 months you have 80 percent zero viewing.

19 When you average that out, it
20 seems to me that it would still come to much
21 more than a couple percent. So tell me why
22 I'm wrong.

1 A It goes back to my description of
2 my methodology. I won't repeat it, but it's
3 the third thing. So the regression is used to
4 do three things. One, as you intimated, it's
5 to predict what distant viewing is for the
6 non-sweeps months, which is about six months
7 a year.

8 Also used it to predict what
9 distant viewing is in those instances that I
10 don't have distant viewing information even
11 during the sweeps months.

12 And the third one, and I try to
13 stress the one that I said was subtle, yet
14 very important, is even in those instances
15 where we have Nielsen diary data on distant
16 viewing, I used the regression model to
17 predict what distant viewing is or expected to
18 be in those instances.

19 And the reason why I do it, I said
20 -- and go back and read my own testimony -- is
21 that those Nielsen diary estimations of
22 distant viewing on those -- sort of those

1 small cells of programs, or quarter-hour
2 programs, are based on relatively small
3 samples.

4 So I want to use a lot more data
5 -- just like my left-handed example -- a lot
6 more data to predict what distant viewing
7 really was. So, actually, I predict positive
8 distant viewing in -- for programs on a
9 quarter-hour basis when Nielsen's relatively
10 small sample says there is zero distant
11 viewing.

12 Q So what you're saying, then,
13 although the actual Nielsen data for four of
14 these months may say 80 percent zero viewing,
15 what you are doing by trying to come up with
16 a bigger database is go back and basically
17 say, "That's what that says, but, really, that
18 is not what it is. It's really less than --
19 it's less than one percent."

20 A Right. And let me give you one
21 example.

22 Q Right? That's correct? I don't

1 know if I'm saying it right. Did I say it
2 correctly?

3 A Well, repeat the question. I want
4 to make sure I --

5 Q Yeah. You said "right" real
6 quick, and then you jumped off, and I didn't
7 know --

8 A I apologize.

9 Q We've got this data from Nielsen
10 that says for these four months zero viewing
11 is 80 percent. My understanding of your
12 explanation is that what you do is you
13 aggregate together more information than just
14 that particular body of data that says 80
15 percent viewing, 80 percent zero viewing.

16 And with that bigger body of data,
17 you reanalyze your zero viewing. And when you
18 did that, you found that for that same period
19 where the raw Nielsen data said 80 percent
20 zero viewing, when you had this bigger
21 aggregate number it was only one percent.

22 Did I say that more or less

1 correctly?

2 A More or less. And the critical
3 part there -- and I just want to make sure the
4 Judges understand -- is that when there are
5 instances of zero viewing, according to
6 Nielsen -- and I think Mr. Lindstrom would say
7 the same thing -- it is not that there was
8 zero viewing. It's that there was zero
9 recorded viewing.

10 And so what the regression
11 analysis does is say, "Okay. Let's find out
12 what the expectation of distant viewing is in
13 those instances." And so you can think of an
14 example where Nielsen, because of its small
15 sample, might have zero distant viewing for,
16 for example, I Dream of Jeannie.

17 And what the Russian does is say,
18 okay, for that one particular example, on the
19 quarter-hour basis, we go back and we look at
20 local ratings. It is five percent. It's
21 relatively high.

22 It is a syndicated programming of

1 a certain type. It is broadcast --
2 retransmitted or broadcast and retransmitted
3 at 4:3 in the afternoon where there is
4 reasonable viewership. And it is on this
5 station, KPIX, that has lots of distant
6 subscribers, together with other variables.
7 Please look at my regression results.

8 For all of these host of
9 variables, I am going to tell you what I
10 expect distant viewing for I Dream of Jeannie
11 to be. And it might be 1,000 households, even
12 though Nielsen records zero from their small
13 sample.

14 Mine is statistically valid, and
15 I'm comfortable with it, which if you
16 aggregate them all up, they will be very
17 similar for that subset of cases where we have
18 distant viewing.

19 Q In doing all of that, you are able
20 to say 80 percent, no, it's not 80 percent,
21 not even 20 percent, it's less than one.
22 That's what you concluded, correct?

1 A My conclusion is distant viewing,
2 based upon my sample of randomly selected
3 stations, has an incidence of less than one
4 percent of distant viewing. Zero.

5 Q And just to clarify, you did then
6 do an analysis of distant viewing. I had
7 asked you that before and you said no, and
8 maybe it was in a different context. But,
9 obviously, you did do an analysis of distant
10 viewing.

11 A I thought your question was about
12 zero viewing. I --

13 Q I'm sorry. It is. I'm getting
14 mixed up. I had asked you earlier on if you
15 did an analysis of the instances of zero
16 viewing, and you said no. But now you have
17 described what we have just been talking
18 about. What I interpret that to mean is that
19 you didn't do an analysis of distant viewing
20 in the Nielsen data itself; you did the
21 analysis you have just described now on
22 essentially reanalyzing distant viewing or

1 zero viewing. Apologize.

2 A I think you are misconstruing my
3 testimony. Actually, that was back when I
4 kept on giving long answers and you wanted a
5 yes or no. And my long answer was,
6 essentially, I did look at the data, I saw the
7 instances of zero viewing. I may not have
8 counted them, but I took my regression model
9 -- I mean, that's the reason why I used this
10 particular regression model was to deal with
11 these instances of zero viewing. That's what
12 I did.

13 Q Did you ever calculate what
14 percentage of the programs measured in the
15 Nielsen diary data, no matter whether they
16 were one broadcast or a thousand, ended up
17 according a zero value? Or showing a zero
18 value?

19 A You are referring now to Nielsen
20 diary data. So you're saying in the raw
21 Nielsen diary data?

22 Q Yeah. Program, by program.

1 A I don't recall doing that.

2 Q Let me ask you to take a look at
3 Exhibit 4 to the IPG rebuttal testimony.
4 Actually, strike that. I am going to take a
5 look at that. You can if you want to, but you
6 don't need to actually.

7 Now, you worked with Kelvin
8 Patterson from Reznick, correct?

9 A Mr. Patterson provided me via
10 counsel several databases. I don't working
11 with him directly.

12 Q Okay. You received from Reznick,
13 though, the raw Nielsen data, correct? I'm
14 sorry. That's -- I'm mistaken, I apologize.

15 I believe what you received from
16 Reznick was raw broadcast data from Tribune,
17 is that correct?

18 A Tribune. That's correct.

19 Q And that was for the group of 81
20 to 125 stations selected by Ms. Kessler,
21 correct? And also the 125 by you, correct?

22 A That's correct. It was two data

1 files.

2 Q Okay. Now, Mr. Patterson
3 testified that he had excluded from those data
4 sets provided by Reznick to you broadcasts of
5 non-compensable programming. Was that
6 actually the case?

7 A I think as I described in my
8 direct, and also as in the roadmap document
9 that I provided to you, he also -- he said he
10 did that, but he actually failed to exclude
11 certain network programming that I discovered
12 in analyzing the data.

13 Q Okay. Now, the Nielsen data that
14 you used on this, let me ask you to look at
15 Exhibit 2 to the rebuttal there, not Exhibit
16 4, sorry. Exhibit 2 is just a list of
17 electronic files that were produced to IPG.
18 And I believe within that list that you see in
19 Exhibit 2 are the Nielsen diary data and
20 Nielsen local ratings data electronic files.
21 Is that the case? Am I correct?

22 A It should be, yes.

Q Okay. And just, you know, so that we can move beyond should be, if you can just take a look at it to see if it is actually represented there or not. It may be; it may not.

A Yes. Under the subheading, it appears to be under Lindstrom, comma, Gray.

Q Okay.

A There is the Nielsen diary data followed by the Nielsen local ratings data.

Q You recognize those titles to those electronic databases?

A Yes.

Q Okay. Now, with regard to them, I believe within them are -- pardon me just for a minute. Now, the MPAA asserted a claim to, I think we've been told, 1,600 different titles. Is that familiar to you? That was in Appendix C of Ms. Kessler's --

A It seems low. So that doesn't sound familiar.

Q Now, this was not programs. I may

have said that --

A Claims --

Q -- it was titles, 11,600 titles.

A That number is bigger.

(Laughter.)

Q My apologies to everyone. Things are catching up with me.

A Well, I'm trying to pay attention. Yeah. I recall that number from the Kessler testimony.

Q Okay. Thank you. I apologize again, everybody.

That was in Appendix C to the Kessler testimony. Does that sound familiar?

A It could be. I'd have to doublecheck the Kessler testimony. I recall reading it in her testimony.

Q Now, was that provided to you in an electronic file? I mean, was it just a big stack of paper, or was it probably an electronic file, I presume?

A I believe it was electronic, but

I'd have to ask the team. I had to -- a team of data folks who did a lot of the analysis.

Q Okay. To manipulate a number like that, I presume it could conceivably be done by hand, but it would be very long, tedious, and generally would be done using an electronic file, correct?

A Yeah. If I were to receive a hard copy of that, I would certainly code it into an electronic copy.

Q To be able to use it.

A Right. I would -- yeah, I would -- it's been a long time since I worked with 11,000 entries by hand. But, yeah, if I -- if during the course of some litigation or regulatory proceedings I received hard copies, which has happened to me in the past, then I would manually -- or have it coded into the computer.

Q It's a labor-saving step if you get it electronically, correct?

A I would say yes.

Q Do you know whether or not such an electronic file was ever provided to IPG in this matter?

A I don't know what was provided to IPG.

Q Fair enough. Now, when you used that file of 11,600 titles to do your analysis, I presume that it generated -- or I believe we know that it resulted in an electronic file called detail of diary matches, correct?

A I'll have to find this on the list.

Q I don't know, it may not be on the list. I don't know. But I'm just -- just from your memory, was there some sort of file generated in that regard?

A Well, actually, I think that was prepared by Reznick is my recollection.

Q Fair enough. It was a little unclear to me. And then it was provided to you to then use, correct?

1 A That's correct. And, you know,
2 that would be then the list of compensable
3 MPAA programming by broadcast and station.

4 Q Okay. I beg your pardon. Just
5 bear with me for a moment.

6 (Pause.)

7 Now, looking at Exhibit 2 again,
8 there is a file with the title Niel00. Do you
9 see that?

10 A I see Niel00.txt. Is that what
11 you're referring to?

12 Q It is. Is that an example of the
13 Nielsen diary data for 2000?

14 A Yes.

15 Q And is it accurate that the
16 Nielsen file format is the legend for data
17 appearing in Niel00?

18 A Again, that's Niel00.txt. The way
19 to remember it perhaps for you is that's for
20 Nielsen double zero.

21 Q Makes sense. Thank you.

22 A Sure. But to answer your

1 question, yes, the -- my recollection is the
2 Nielsen file format had a data legend and/or
3 layout.

4 Q Okay. I'd like to introduce a --
5 or mark a new exhibit, and I believe we are at
6 505. I hope we're at 505.

7 CHIEF JUDGE BARNETT: I think so.

8 (Whereupon, the above-referred to
9 document was marked as IPG Exhibit
10 No. 505 for identification.)

11 BY MR. BOYDSTON:

12 Q And my question is if this is the
13 Nielsen -- it says Nielsen file format. But
14 I believe that these are the 13 fields in that
15 document, is that familiar to you?

16 A Reasonably familiar. I would have
17 handed this over to my data folks, so I would
18 not have perused it.

19 Q Do the 13 fields here look like
20 the 13 fields that you would typically have in
21 this sort of a document? There is not
22 something in here that you are looking -- you

1 say, "Left-handed monkeys? We don't have that
2 file. We never had that sort of a column."

3 A I think the answer to that is yes.

4 Q Thank you. I'd like to introduce
5 or mark another exhibit, 506.

6 (Whereupon, the above-referred to
7 document was marked as IPG Exhibit
8 No. 506 for identification.)

9 Now, I'll represent to you that
10 this is a printout of the file you were just
11 talking about, Nielsen00. And based upon your
12 familiarity with that file, does this look
13 familiar, or does it look like what you would
14 expect to see from such a printout?

15 A It has been a long time since I
16 looked at the actual Nielsen data, so I would
17 actually have to doublecheck with the team who
18 actually read in the data to see if this
19 represents all of the fields, and so forth.

20 Q Well, that is kind of where I was
21 going with my question is it only seems to
22 have eight fields. Can you think of any

1 reason -- to the extent that the Nielsen file
2 format I marked as Exhibit 505 represents
3 there's 13 fields, and this document, which is
4 a printout of this electronic file, Niel00,
5 doesn't seem to have 13 fields, do you have
6 any hypothesis as to why that would be?

7 A No. I'd have to doublecheck. I
8 could start guessing what the fields would be,
9 but no reason to guess at this point.

10 Q So you don't have any personal
11 knowledge as to why there are five fields
12 different between these two.

13 A I don't have any personal
14 knowledge at the moment, no.

15 Q Okay. Were you involved at all
16 with MPAA's production of electronic files to
17 IPG in this matter? Did you assist in that in
18 any way?

19 A Only insofar as I told them which
20 of the raw files that one needed in order to
21 replicate my analysis.

22 Q Okay.

1 A And so I underscored which were
2 the files.

3 Q Is it fair to say that you didn't
4 perform some sort of function to knock out
5 five fields before production occurred?

6 A No. I didn't make any adjustments
7 to the raw data. There is a good chance -- I
8 could check with the team and get back to you,
9 you or the Judges -- that this is the raw data
10 we relied upon. But I don't recall right now.

11 Q Now, your testimony is that you
12 implemented your regression analysis with the
13 electronic files provided to you by Kelvin
14 Patterson from Reznick. I think I've asked
15 that more than once perhaps, but that's the
16 case, correct?

17 A Among other electronic files, yes.

18 Q And were two of the files you were
19 provided with from Reznick entitled detail of
20 diary matches and detail of local matches?

21 A Correct. By year, 2000 through
22 2003, four of each.

Neal R. Gross & Co., Inc.
202-234-4433

1 Q And what is the name of the
2 electronic file that resulted after the
3 implementation of the regression analysis?

4 A I don't know what you mean by
5 that.

6 Q Well, you took those files and you
7 performed a regression analysis.

8 A Correct.

9 Q What was the product of the
10 regression analysis?

11 A Well, the product of the
12 regression analysis -- we talked about this
13 earlier today -- ultimately was going to be
14 sort of predicted distant viewing on the
15 quarter-hour basis.

16 And then, within the program, sum
17 that up for IPG and MPAA to calculate
18 viewership shares each year.

19 Q So did that result in some sort of
20 electronic file or electronic process?

21 A It resulted in an electronic
22 number. I think the number that is now in the

Neal R. Gross & Co., Inc.
202-234-4433

1 report.

2 Q Well, but just further back
3 upstream, if you will, wasn't there a point at
4 which -- weren't there intermediary things
5 that were produced to then arrive at the final
6 number?

7 I know the final number is a big
8 -- is this adding up, like you described
9 before, but higher up the stream weren't there
10 other points at which you took these two files
11 we just identified -- detail of diary matches
12 and detail of local matches -- and then put
13 them into a regression analysis to come up
14 with the platform upon which you would make
15 the final determination?

16 A Yeah. I would actually go back to
17 my testimony earlier today, which is that
18 there are five data sources that combine
19 together. And so then those five data
20 sources, once combined together, form the
21 basis for running the regression analysis. So
22 we were -- and those five data sources were

Neal R. Gross & Co., Inc.
202-234-4433

1 actually listed on this file here.

2 Q In your statement you said, and I
3 quote, "For each of these stations and years,
4 I obtained the Nielsen local ratings data. I
5 then merged the local ratings data with the
6 Tribune data." When you did that, did that
7 produce some sort of an electronic file with
8 the results of it?

9 A Yeah. Oh, if -- when I say I
10 combined all five, I don't combine all five
11 instantaneously.

12 Q Right. That's what I was getting
13 at.

14 A Sure. It goes like this, start
15 with one, you add another, you add a third, a
16 fourth, and actually there are two in the
17 fifth, and then you add the fifth. And then
18 you add those all together.

19 Q Right.

20 A So when I say combine them, they
21 are done sequentially.

22 Q And so focusing on this process I

Neal R. Gross & Co., Inc.
202-234-4433

1 just read, which I will read again for
 2 everyone's clarity, "For each of these
 3 stations and years, I obtained the Nielsen
 4 local ratings data. I then merged the local
 5 ratings data with the Tribune data." Is that
 6 number one in your finger analogy, or is that
 7 further down the line? I think it's number
 8 one, but --

9 A The short answer is it doesn't
 10 matter.

11 Q Okay. Fair enough.

12 A The order of the merging doesn't
 13 matter. You will get the same end result. It
 14 could be one and two, it could be two and
 15 three, but so -- yeah, it's one of the four
 16 merges out of the five.

17 Q That's one of the four, though,
 18 correct?

19 A Correct.

20 Q Now, when you did that merge, did
 21 it create an electronic file?

22 A Yeah. It will be a temporary

1 file. Yeah, absolutely. So it --

2 Q Can you make it move from
 3 temporary to permanent?

4 A Can you?

5 Q Yes.

6 A You could. Imagine if you have
 7 Data Set 1, call it Data Set 1, Data Set 2.
 8 So in your program you set those two, and then
 9 you merge by -- if I can describe the code to
 10 you, by station, date, quarter-hour. And you
 11 have to normalize the quarter-hour because
 12 there is inconsistency across some of the
 13 data. And say merge, and then those two are
 14 now together, and you have a new data set.

15 And then you -- and so this now is
 16 called Data Set 3. You can call it whatever
 17 you want. You could call it temp.

18 Q Okay.

19 A Or your monkey.

20 Q Now, this temporary data file, it
 21 wasn't saved, then, it was temporary, correct?

22 A Yeah. Hard drives are cheap these

1 days. You could save it, but there's no
 2 reason to.

3 Q Okay. But just to be clear, it
 4 could have been saved; it was not, true?

5 A Yes. It could have been saved.

6 Q Okay.

7 A But I see no reason to save it.

8 Q And then, if I could have you look
 9 back at Exhibit 2 again in the rebuttal
 10 testimony. That's the list of various
 11 electronic folders and files produced by MPAA.
 12 I presume, since it wasn't saved, the file
 13 created by this process we have just been
 14 discussing is nowhere on this document of
 15 course, right? Because it wasn't saved and it
 16 wasn't produced, correct?

17 A Well, it depends on what you mean
 18 by "nowhere on." It is in there insofar as
 19 one and two are on there. But, yeah, but --

20 Q But not the joinder.

21 A Oh, yeah. I -- yeah. If you
 22 wanted to give me a bunch of joinders, I could

1 buy a big terabyte hard drive and turn it
 2 over. But I don't quite see the point of
 3 that. All I --

4 Q I'm not asking if you know the
 5 point of it. I'm asking if it was done, and
 6 I think the answer is simply no, it was not,
 7 right?

8 A I gave you Data Set 1 and Data Set
 9 2, and I said combine them. But I did not
 10 provide you the combined Data Set 1 and 2,
 11 correct.

12 Q Did you provide the program with
 13 which to combine the two?

14 A No. Instead, I provided I guess a
 15 roadmap, if you will.

16 Q Okay.

17 A Or a description.

18 Q The roadmap, did that include the
 19 computer program to do that process with?

20 A No. It essentially said something
 21 along the lines of merge or combine, and so I
 22 would think someone who is experienced with

1 working with data would have no problem.

2 Again, as I described earlier, one
3 of the reasons why I wanted to make sure
4 before -- that was replicable is I had a
5 separate team within my firm. I gave them the
6 roadmap and the data and said, "Can you
7 replicate it?" Gave it to them and they did.
8 So I felt reasonably comfortable that one
9 should if not get it exactly, get it darn
10 close.

11 And given how robust the results
12 are, it would be surprising to me for anyone
13 who sort of followed the steps to get very,
14 very close to the results.

15 Q What were the qualifications of
16 the people that you gave it to to replicate?

17 A Ph.D. in economics, together with
18 people with data experience.

19 Q Probably something a man on the
20 street could not do. Fair enough?

21 A Depends which man on the street, I
22 would respond. But I would say a randomly

Neal R. Gross & Co., Inc.
202-234-4433

1 chosen person would probably have difficulty
2 merging a bunch of data sets together, yes.

3 Q Now, I think one of the next
4 steps, or at least it came -- this is the way
5 it came sequentially in your testimony -- was
6 you say, "I can, therefore, calculate a
7 distant ratings measure as the number of
8 distant viewers of the stations of each 15-
9 minute time interval from the diary data
10 provided by the total" -- excuse me --
11 "divided by the total number of distant
12 subscribers of that station from the CDC
13 data."

14 Could you explain to us -- this
15 explains a lot of it. But could you explain
16 to us what that process was?

17 A That's a good question. Actually,
18 I wrote this some time ago. And what I --

19 Q Is it fair to say that the idea
20 here was to create a distant rating for a
21 particular time period?

22 A Well, the description says I could

Neal R. Gross & Co., Inc.
202-234-4433

1 do it, but what's interesting -- when I reread
2 this I go, what? Why did I write it that way?
3 Sometimes when you write something it seems
4 very clear to you at the time. You read it
5 nine months later and you say, "I could have
6 been a little clearer." And I apologize for
7 that.

8 But ultimately what I did was I --
9 as how I described it earlier in my testimony,
10 that I looked at the relationship between
11 distant viewing and local ratings holding
12 constant the number of distant subscribers.
13 Mathematically, that is really looking at
14 distant ratings and local ratings.

15 So there is truth in what I wrote,
16 but it is -- if I had to rewrite it again, I
17 would probably edit it slightly.

18 JUDGE STRICKLER: Can I interject
19 a question?

20 THE WITNESS: Yes.

21 JUDGE STRICKLER: Looking at your
22 Appendix C, you had your other control

Neal R. Gross & Co., Inc.
202-234-4433

1 variables. You have a constant, time of day,
2 quarter-hour, year, program type, and station
3 affiliation, indicated variables. Do you see
4 that sort of as a legend at the bottom of your
5 --

6 THE WITNESS: Yes.

7 JUDGE STRICKLER: -- first table,
8 C.1? did you ever hold local ratings constant
9 to see whether or not those other variables
10 had an impact on distant viewers, in
11 particular time of day?

12 THE WITNESS: Yes. And it does.
13 They are all very significant.

14 JUDGE STRICKLER: So if you held
15 local ratings constant --

16 THE WITNESS: Right.

17 JUDGE STRICKLER: -- and you
18 simply looked at it for a correlation between
19 time of day and distant viewers, you say there
20 is a tight fit?

21 THE WITNESS: Yes. Absolutely.

22 JUDGE STRICKLER: Tighter than the

Neal R. Gross & Co., Inc.
202-234-4433

1 correlation between local ratings and distant
2 viewers?

3 THE WITNESS: Tighter. Well, two
4 things. One is, when you say hold local
5 ratings constant, that's effectively what I'm
6 doing with the regression. So I'm holding the
7 log of local ratings constant. And I don't
8 know -- there is also -- I turned over the log
9 file. Maybe it should have been -- I don't
10 want to -- I can't remember how many
11 variables. It's small. This actually winds
12 up being, you know, 60, 80 -- 60 or 80
13 variables, so I didn't put it in the appendix.
14 But it is in the log file that was turned over
15 to IPG, as I understand.

16 To answer the question, each of
17 those quarter-hour dummy variables, I think
18 each and every one -- I'd doublecheck -- was
19 statistically significant, even holding
20 constant log of local ratings.

21 When you say a tighter fit, I'd
22 say even -- this is the important part. Even

Neal R. Gross & Co., Inc.
202-234-4433

1 holding constant, the quarter-hour of the day
2 -- so what's four times 24 would be the
3 number. Even holding all of those constant --

4 JUDGE STRICKLER: 96.

5 THE WITNESS: 96. So there is 96
6 -- actually, 95 dummy variables because you
7 have to remove one. So holding all of those
8 time periods constant, local ratings is still
9 very, very important. So that's what that
10 coefficient tells you is holding the quarter-
11 hour constant, what is the -- and these other
12 factors, what is the relationship between
13 local ratings and distant viewing?

14 JUDGE STRICKLER: But if there is
15 a correlation -- maybe I'm missing something
16 here, but if there's a correlation between
17 time -- leaving aside the local ratings issue
18 for a second, if there is a correlation
19 between time of day and number of distant
20 viewers, is that at all similar to the time
21 weight factor that was attempted by IPG in its
22 analysis?

Neal R. Gross & Co., Inc.
202-234-4433

1 THE WITNESS: Good question. And
2 so that's why I said -- I described in my
3 testimony that his proposal in some ways is a
4 --

5 JUDGE STRICKLER: Crude
6 approximation?

7 THE WITNESS: -- crude
8 approximation. So in --

9 JUDGE STRICKLER: That was my next
10 question.

11 THE WITNESS: Yeah.

12 JUDGE STRICKLER: So you have
13 already at length told us why it was crude.
14 Now I think you are telling us why it was
15 still approximate.

16 THE WITNESS: Right. Well, and
17 kind of crude and approximate are going
18 together, but yes.

19 JUDGE STRICKLER: So if there was
20 a correlation, as you say, between time of day
21 and the number of distant viewers, do you know
22 what it was? Or offhand you don't know?

Neal R. Gross & Co., Inc.
202-234-4433

1 THE WITNESS: Well, again, what I
2 would have is 96 dummy variables. So I
3 actually have 95 with a constant, 96
4 correlations. And so what you'll see is in --
5 you know, from midnight through 6:00 a.m. it's
6 negative. And so it becomes positive. So the
7 kind of trends you expect to see, but each
8 quarter-hour was statistically significant.

9 Does that answer your question?

10 JUDGE STRICKLER: I think it does.
11 Let me ask you, if there was this good
12 correlation between time of day and distant
13 viewers, and that is part of what IPG did, to
14 try to make that correlation --

15 THE WITNESS: Yeah.

16 JUDGE STRICKLER: -- why didn't
17 you include it in Appendix C? Why didn't you
18 show that same -- have those coefficients in
19 here as well?

20 THE WITNESS: Well, as I said
21 earlier, maybe I should have because there
22 would have been about 200 -- not 200, I'm

Neal R. Gross & Co., Inc.
202-234-4433

1 trying to remember the number, but maybe 120
2 variables. And so I just thought for focus
3 one could do it. But it might be in someone's
4 manila folders.

5 JUDGE STRICKLER: It couldn't have
6 been reduced to a line or two item on the
7 table the way you have it here on Exhibit --

8 THE WITNESS: No. Because I
9 estimated for every single quarter-hour. So
10 I estimated the relationship between the
11 quarter-hour, like from midnight to --

12 JUDGE STRICKLER: 12:15.

13 THE WITNESS: -- 12:15. Thank
14 you. Sorry, I'm getting a little tired. From
15 12:15, 12:30, each of those is in there. So
16 I have 95 dummy variables. Each has a
17 coefficient between that and distant viewing.

18 And, actually, I printed it out
19 and my eyes blurred. And I did that because
20 I didn't want your eyes to blur. We could
21 certainly produce it to you, but -- two
22 things. He has it over there, so he could

Neal R. Gross & Co., Inc.
202-234-4433

1 show it to you.

2 MR. BOYDSTON: Your Honor, I would
3 like to mark this as Exhibit 507.

4 (Whereupon, the above-referred to
5 document was marked as IPG Exhibit
6 No. 507 for identification.)

7 JUDGE STRICKLER: You were
8 anticipating this.

9 THE WITNESS: Should I wait for
10 the question, or should I start walking
11 through it.

12 JUDGE STRICKLER: Wait for the
13 question, please.

14 BY MR. BOYDSTON:

15 Q Mr. Gray, I feel like the guy
16 coming on after the show has begun, but you
17 see what has been marked as Exhibit 507.
18 Could you tell us what this is?

19 A Sure. Well, the first part of
20 this is the Poisson regression analysis that
21 I as describing. In particular, this first
22 regression is the one for -- not for WGN. So

Neal R. Gross & Co., Inc.
202-234-4433

1 that's the one that I used to estimate the
2 relationship between local ratings, market
3 size, time of day, and now you see I am
4 actually turning the pages on time of day,
5 year, affiliation, and program type.

6 So I estimate that relationship --
7 between that and the distant viewing. And
8 distant viewing is wght_house_proj. Nice
9 intuitive label.

10 MR. BOYDSTON: And, Your Honor, I
11 would like to move that Exhibit 507 be
12 admitted.

13 MR. OLANIRAN: No objection.

14 MR. HARRINGTON: No objection.

15 CHIEF JUDGE BARNETT: Exhibit 507
16 is admitted.

17 (Whereupon, the above-referred to
18 document, previously marked as IPG
19 Exhibit No. 507 for
20 identification, was admitted into
21 evidence.)

22 BY MR. BOYDSTON:

Neal R. Gross & Co., Inc.
202-234-4433

1 Q Now, and if I missed something in
2 your explanation of what this is, I apologize.
3 Where in the process of your calculations does
4 this come in? You gave me a really handy hand
5 model before. Perhaps you could help me by
6 telling me where this fits into that.

7 A Sure. It comes in at the first,
8 which is all five data sources combined. Now,
9 once you have them all combined, you have all
10 -- and I say this in the direct testimony, you
11 have all of these different variables, and
12 then you run the regression.

13 So you would run this first code
14 that says -- that little dot on the side,
15 Poisson weight house, et cetera. So that --
16 and so what that does is tells your nice
17 little computer to run a Poisson regression
18 with the following control variables.

19 And so the variable of interest,
20 as I described before, the outcome variable is
21 distant viewing, which Nielsen calls weighted
22 household projection.

Neal R. Gross & Co., Inc.
202-234-4433

Q Now, I see in here the 95 or -- well, you said 96 -- 95, 96 different computations. Those are the ones that start on the first page and run down -- the numbers run -- numbers 1 through 22 run down the left-hand side of the page, is that correct?

A Right.

Q And then continue on to the following page?

A Right. Those are normalized quarters, so quarter zero is midnight to 12:15, or, I'm sorry, quarter one, which is -- as I described earlier, you always have to, for those of you who love statistics, you always have to drop one dummy variable.

And so we dropped the midnight to 12:15, because all these dummy variables measure is what that time of day is relative to something. So that's why you drop one. So it's relative to midnight to 12:15.

Q Now, on the fourth -- excuse me, the third page of this exhibit, at the

Neal R. Gross & Co., Inc.
202-234-4433

beginning it says 86, and then it goes down to 96. And then after that it says year, and it says 2001, 2002, 2003. I assume those refer to those particular years, correct?

A Correct.

Q Is there a reason why 2002 isn't there?

A Do you mean 2000?

Q Excuse me. 2000.

A Yeah. For the same reason, which is when you have dummy variables -- and I can define dummy variables -- what you are doing is estimating how those years are relative to something. So you always drop one. So those three estimates are how the regression is impactful relative to the year 2000.

Q Understood. Underneath that it says IND, UPN, and WB.

A Yes.

Q Those sound like Independent, the UPN Network, and Warner Brothers. Is that what those are for?

Neal R. Gross & Co., Inc.
202-234-4433

A That's correct, yes.

Q And what is the purpose of those figures?

A Again, we are trying to sort of estimate as precisely as possible distant viewing. So we are looking at variables in the data sets, and this is from the Tribune data, those particular variables.

Whether or not if the program was broadcast and retransmitted, or if it was broadcast on UPN, does that have an impact on distant viewing? And one can think of reasons why it might. For example, perhaps the quality of a program was different on UPN than other programs. Apparently not with respect to distant viewing.

So, anyway, they are in there just to try to as precisely estimate as possible distant viewing.

Q And then, beneath that it says what looks like an abbreviation of program type 1, 2, 3, et cetera. What are those

Neal R. Gross & Co., Inc.
202-234-4433

referring to?

A Right. Those are the various different program types included in the program supplier category from the Tribune data.

Q So they correspond with the Tribune nomenclature which runs 1 to 30 for different types of programs, correct?

A Yes.

Q Now, beneath the dashed line that cuts across the page towards the bottom, there then appears to be a dot and it says "predict double view," underline hat, underline POI, and then a semicolon. What does that refer to?

A That is a very complicated process that the computer -- you only have to write that one code to tell them to do it. That is actually predicting for every single quarter-hour what distant viewing is based upon that regression result. So that one line does the sort of projections that we described earlier.

Neal R. Gross & Co., Inc.
202-234-4433

Q And so is that essentially -- the way this is portrayed here on this page, is that essentially reflecting a command for that process to take place?

A Yes.

Q Where is the product of that? Did it exist in another temporary file, or is it some other file?

A Again, it would exist in the RAM of this computer, so it never existed on the hard drive. So by "RAM" I mean random access memory. So it -- what the computer does is for these millions and millions of observations -- in this case where we're doing quarter-hour stuff -- it makes these projections and holds on to them, and then later there is code to tell it to sum it up and create the relative viewership numbers.

Q So the product of applying this predictable view, etcetera, as you said, was never saved on the hard drive. It was in the RAM. It could have been saved on the hard

drive, correct, if the hard drive was big enough?

MR. OLANIRAN: Objection. Your Honor, asked and answered.

CHIEF JUDGE BARNETT: Sustained.

BY MR. BOYDSTON:

Q Was it saved?

A It was not saved, no.

Q Okay. Did anyone ever tell you that those sorts of things should be saved in your study and in the process of doing your study?

A I have never heard such a position before, in large part because it is easily replicable. So, again, if you start with the raw data, merge all -- you press the code, you generate it again.

So, for example, if I were an expert and someone else gave me those millions of numbers, my response is, why are you giving me these millions of numbers? Give me your raw data, and give me your specification.

That's what I did.

Q But if you're not an expert, then you wouldn't know what this is, would you?

A I'd defer to the people out here to the right in terms of this, but possibly.

Q Underneath that there is a -- it says -- it appears, parenthetical, option and assumed, semicolon, predicted number of events, paren, end paren. What does that refer to?

A That's essentially just the program telling you, "Just so you know, we're doing this for everybody."

Q Got it. And then underneath that, dot P-O-I-S-O -- excuse me.

A Poisson?

Q Poisson, P-O-I-S-S-O-N, then dash or a space, W-G-H-T, space, house, space, log, underline, L-R-F, et cetera. What does that refer to?

A Actually, if you'll look back up to the prior -- the very beginning of the log

file, this is repeating the same regression but doing it only for WGN. And so if you look at actually towards the end of this command, actually it's a command that sort of flips over two lines -- just so you know, that little caret, the sign to the side, lets you know that it is a part of the same command.

But it says if WGN equals equals one, so that's telling the computer run this Poisson regression -- Poisson was a statistician back in the 1800s -- run this regression, but only do it for WGN.

Q Okay. And that was done, I presume.

A Yes. If you start turning over the pages, you will see that it was done, yes.

Q And as you say, turn over the pages. Actually, before we turn the pages, a line or two down then it says -- it starts saying, note, colon, and different things come in. What do those refer to?

A Sure.

Q Why don't we just start with the first one, note, colon, aff omitted because of colinearity.

A Colinearity -- yeah. What that tells you is that there is no variation in the sort of affiliate for this particular regression. The reason why that is is it's all WGN. Program types, it will be the same thing. What that's telling you is that there is no program type of one, two, or three, on any of these broadcasts.

So the computer is saying, "I can't estimate a coefficient for that," so it just drops it. You could do it manually, but this is just a much more efficient way. And it goes on. So there are a lot of different types of programs that apparently are not carried on WGN.

Q Okay. Let me -- at some point, I think about page 4, we start getting page numbers on this, which is handy, but the first three, for whatever reason, they aren't there.

Neal R. Gross & Co., Inc.
202-234-4433

If you turn to the sixth page, which conveniently says page 6 at the bottom of it, again, we see the reference to the 30 Tribune program types. We see above that references to the years 2001 to 2003. But, then again, underneath the dashed line I think it is that same -- but you correct me if I'm wrong -- in that same command, dot, predict double view, hat, Poi, WGN. What does it mean, where it is put there on that page?

A Oh. What that is telling me is that -- essentially create a new variable called view, hat, underscore, Poi, slash WGN. And the reason is that we are going to combine it later, and I don't want to confuse these different projections.

So what this is is saying, if WGN is one, make -- oh, I'm sorry. I can't tell you to rewind. It's getting late in the day.

So this is now being run on the same database. And we have -- for everybody but WGN, we have predicted viewing. And so

Neal R. Gross & Co., Inc.
202-234-4433

what the computer would have done, if you look actually back up at the very first -- this is a long time ago -- at the very first page, you'll see it was run August 21, 2012.

The first regression is WGN is equal to zero. And then we did the -- we predicted distant viewing for everyone in that regression. But what the computer is going to do -- well, for WGN, it is missing, so it will set the value equal to missing.

So this step says, okay, we've now just run the regression. From this regression with WGN, stick the value of the predicted back into -- I hope this makes sense to you all -- into -- because I don't want to have to say it again -- into view, hat, underscore, Poi. Was that close to clear?

Q Well, it is what it is.

A Okay.

JUDGE STRICKLER: May I ask a question?

MR. BOYDSTON: Thank you.

Neal R. Gross & Co., Inc.
202-234-4433

JUDGE STRICKLER: Not on that, actually, but on this document. Just so I understand, and maybe you can explain in lay terms perhaps, the significance, or lack thereof.

If you'd turn to page 2 of Exhibit 507 in evidence --

THE WITNESS: Yes.

JUDGE STRICKLER: -- there is line item 80. And this is based on quarter of an hours -- quarter-hour segments starting from midnight, correct?

THE WITNESS: Correct.

JUDGE STRICKLER: So correct me if I'm wrong, but that would be the 8:00 p.m. to 8:15 viewing time period, is that right?

THE WITNESS: That's right, yes.

JUDGE STRICKLER: Okay. What is the significance of the 1.221914 coefficient?

THE WITNESS: Sure. What that tells you is distant viewing goes up by 1.22 percentage points for that particular quarter-

Neal R. Gross & Co., Inc.
202-234-4433

1 hour, all else equal. So it's easily
2 interpretable, because this is a Poisson.
3 What a Poisson regression means, maybe I
4 should take a step back, is you are running a
5 regression of the -- of distant viewing on the
6 exponent of all of these independent
7 variables.

8 And so, as a result, when you
9 interpret these coefficients, you are really
10 doing this -- it's the change in the log of
11 the dependent variable over the change in the
12 X variable.

13 I'll say that for those of you up
14 there who love statistics. And so the
15 interpretation, then, is it is different for
16 the first two variables. It's different for
17 the log variables. For the non-log variables,
18 it means -- this means how much does a one
19 unit change in this affect the percentage
20 point difference in weighted house projection.

21 So, again, I don't know if I
22 should have said so much. A 1.22 percent

Neal R. Gross & Co., Inc.
202-234-4433

1 increase, all else equal, distant viewing goes
2 up for that quarter-hour.

3 JUDGE STRICKLER: And on the next
4 page, when you do it by year, 2001, 2002,
5 2003, is that in any sense the average of all
6 of those 15-minute time intervals?

7 THE WITNESS: No. That is sort of
8 just capturing general time trend. And so
9 what this is showing you is, relative to the
10 year 2000, distant viewing actually has
11 decreased slightly in percentage terms.

12 JUDGE STRICKLER: Okay. So that
13 is simply a comparison to 2000, not an
14 average.

15 THE WITNESS: Correct.

16 JUDGE STRICKLER: Is there any
17 statistical merit, in your opinion, to
18 averaging out the 96 different time periods?
19 And I guess you would have to drop the -- you
20 would use absolute value rather than the
21 negative and the positive to try to get -- to
22 figure out what the average fit is between

Neal R. Gross & Co., Inc.
202-234-4433

1 time of day and distant viewing?

2 THE WITNESS: Oh. I think the
3 simpler way -- I mean, I think you're asking
4 this way -- if not, correct me. I think a
5 simpler way would be to drop the other
6 independent variables.

7 JUDGE STRICKLER: Right. Yeah.

8 THE WITNESS: And so would there
9 be merit? Yes, there would be some merit.
10 The problem is, I would want to ideally more
11 precisely estimate distant viewing. And what
12 you'll see -- gosh, let's look at log local
13 ratings, because I find this huge, is that
14 even holding constant the quarter-hour --

15 JUDGE STRICKLER: Where are you
16 now?

17 THE WITNESS: I'm sorry. This is
18 on page 1, and this will be the very first
19 independent variable. So right under
20 weight_house_projected.

21 JUDGE STRICKLER: Right.

22 THE WITNESS: You have log_LR.

Neal R. Gross & Co., Inc.
202-234-4433

1 JUDGE STRICKLER: Right. And
2 that's the same thing -- that's the number
3 that we find as your coefficient estimate on
4 Table C.1.

5 THE WITNESS: Correct.

6 JUDGE STRICKLER: Right.

7 THE WITNESS: And it matches,
8 then, Kelvin's. And, anyway, but what that
9 says is even holding those quarter-hours
10 constant, and because it's a log, then it is
11 going to be log on log, so it's actually an
12 elasticity. So a one percent increase in log
13 ratings leads to half a percent increase in
14 distant viewing, which is -- and that is
15 holding everything constant.

16 JUDGE STRICKLER: That is
17 measuring the change in log rate, local
18 ratings relative to distant viewers.

19 THE WITNESS: Right.

20 JUDGE STRICKLER: My question is,
21 what is the fit with regard to time of day?

22 THE WITNESS: I could find out.

Neal R. Gross & Co., Inc.
202-234-4433

1 But by "fit," do you mean like how much of it
2 does it explain?

3 JUDGE STRICKLER: Right. And,
4 again, the reason I'm asking this is not
5 academic interest, it's because it strikes me
6 -- and I think you've said so -- that it is in
7 some sense part and parcel of what IPG was
8 trying to get at with regard to a time factor.
9 So I want to see how significant it is, not
10 from their numbers necessarily, but with your
11 numbers.

12 THE WITNESS: Oh. I --

13 JUDGE STRICKLER: So what is the
14 answer? How significant is it? And is it
15 more significant or less significant or as
16 significant as your correlation between local
17 ratings and distant viewers?

18 THE WITNESS: I see your question.
19 It took me a while. You've asked me two or
20 three times. I finally understand. The
21 answer is I could do the test to find out
22 which one sort of has more, actually, I would

Neal R. Gross & Co., Inc.
202-234-4433

1 say explanatory power.

2 But from my perspective, I would
3 say why stop with time period. You know, in
4 addition to time period, let's control for,
5 you know, other aspects that predict distant
6 viewing. But is it more or less? I don't
7 know sitting here. It could be more, but,
8 even if it is more, I'd say let's start with
9 it and build from there. Does that make
10 sense?

11 JUDGE STRICKLER: It makes sense,
12 but you could do it on all of your various
13 variables that you either controlled or didn't
14 control, depending on which one you were
15 trying to -- which change you were trying to
16 isolate, right?

17 THE WITNESS: Correct. Absolutely
18 correct.

19 JUDGE STRICKLER: And it didn't
20 seem important to you -- let me ask you that
21 -- didn't it seem important to you to do that
22 kind of correlation between time of day and

Neal R. Gross & Co., Inc.
202-234-4433

1 distant viewership in light of what IPG was
2 arguing?

3 THE WITNESS: Oh. What I would
4 say is -- what the regression shows is,
5 actually, IPG is right that time of day
6 matters. It matters a lot. So no question,
7 I agree with that.

8 And so, but what this also shows
9 is, in addition to time of day, local ratings
10 matters a lot. They both matter, so -- which
11 one matters more? Even if time -- you know,
12 I don't know. If time of day doesn't --
13 unless it matters more, I still don't see why
14 we wouldn't control for local ratings.

15 JUDGE STRICKLER: Well, I'm not
16 saying you wouldn't, but you would want to
17 have a control with regard to -- so that you
18 could isolate each variable.

19 THE WITNESS: Yeah. No,
20 absolutely. So is your question, why don't I
21 just -- why don't I report all of these in my
22 --

Neal R. Gross & Co., Inc.
202-234-4433

1 JUDGE STRICKLER: Yes.

2 THE WITNESS: I now wish I had is
3 the long answer. I guess the answer is, is
4 flipping it, I guess I thought you would find
5 this mind-numbing looking at these three pages
6 of coefficients. But, by all means, I think
7 each and every one is important. I also think
8 -- as I say in my report, I think program type
9 is important, and I don't report those either.

10 JUDGE STRICKLER: I understand
11 that. And how did you determine your
12 constant?

13 THE WITNESS: It's the variant.

14 JUDGE STRICKLER: Of the --

15 THE WITNESS: I'm sorry. Are you
16 asking me, where is the constant?

17 JUDGE STRICKLER: Yes.

18 THE WITNESS: This is -- clearly,
19 you have a statistics background. That's at
20 the very end of the coefficients is the
21 default for this particular statistical
22 software. So this is on page 3, underscore,

Neal R. Gross & Co., Inc.
202-234-4433

1 constant. I'm sorry, underscore, C-O-N-S.

2 JUDGE STRICKLER: Page 3?

3 THE WITNESS: Yes. So it's on
4 page 3, right above all of those little hash
5 lines.

6 JUDGE STRICKLER: Yeah.

7 THE WITNESS: That's the constant.

8 JUDGE STRICKLER: Thank you.

9 CHIEF JUDGE BARNETT: Dr. Gray, I
10 just want to say that this is probably mind-
11 numbing for everyone except Judge Strickler.

12 (Laughter.)

13 Lest you get carried away.

14 THE WITNESS: Should I say no
15 offense taken? I don't know.

16 (Laughter.)

17 BY MR. BOYDSTON:

18 Q Mr. Gray, have you been advised,
19 or are you familiar with the regulatory
20 requirements governing this proceeding in
21 terms of conducting surveys and conducting
22 studies of this type?

1 A You know, I don't recall if I have
2 been advised. But sitting here today, I don't
3 recall the specific requirements.

4 Q Okay. With regard to the colloquy
5 between you and Judge Strickler, the
6 possibility came up of whether or not it might
7 have made sense to perform the calculation in
8 this regard but focusing on the day part
9 viewing, and you responded to the Judge's
10 question in that regard.

11 And you were asked whether or not
12 -- you know, you were asked whether or not you
13 had done that or you had explained that and
14 you said, "I wish I had." Do you recall that
15 answer?

16 A Well, to be clear, that "I wish I
17 had" is I wish I had reported this entire
18 regression results in my Appendix C is what I
19 meant by that.

20 Q Correct. Right, right. Is there
21 any reason in particular you didn't?

22 A As I said before, just for

1 presentation purposes.

2 Q Okay. Now, let's see, we are
3 getting towards the end of the day. I'm going
4 to see if I can move this along a little bit.
5 So what I'm going to do is going to be a
6 little on the abbreviated side, but I think we
7 can make it work.

8 What I'm interested in
9 establishing, and perhaps you could focus on
10 Exhibit 2, the list of the different
11 databases, I have asked you a couple of
12 questions about different steps along your
13 process where something could have been saved
14 but wasn't. Understood? I'm not going to ask
15 that again on purpose. If I do, I apologize.

16 I'm going to ask you about several
17 steps in your process and several calculations
18 you made and whether or not an electronic file
19 representing that activity is represented on
20 Exhibit 2. And as I say, I'm going to try not
21 to repeat myself, it's just I don't know if
22 some of these terms -- I'm not sure if I'm

1 saying the same thing as I said before, so I
2 beg your pardon if I do.

3 A I just want to make sure I
4 understand. So you're going to go through a
5 series of questions where you ask is -- like
6 you merged these two together. There's a
7 temporary file. Did you save it, did you
8 provide it, et cetera?

9 Q Yes. That's correct. See, the
10 first item is you went through a process to
11 exclude non-compensable programming. You
12 testified to that. Is there -- did that
13 result in some sort of an electronic file that
14 is represented on Exhibit 2?

15 A No.

16 Q You were given a list of 11,600
17 MPAA-represented titles. I think you
18 testified that you did have an electronic file
19 of the 11,600 MPAA-represented titles. But
20 you didn't know anything about the production
21 of that one way or the other, is that correct?

22 A My understanding is that the

1 titles list, that should be there under the
2 2000 detail of diary matches, and then the
3 2000 detail of local matches.

4 Q Now, you're referring to one of
5 the indications on Exhibit 2?

6 A Yes.

7 Q I'm sorry. Can you tell me who
8 it's under? Is that under Kessler, Martin,
9 and Gray?

10 A I want to make sure I get this
11 right. The Patterson-Gray I believe are the
12 listings of compensable titles for IPG and
13 MPAA. Is that what you're asking about or --

14 Q Well, do you know whether or not
15 any of the electronic databases listed on
16 Exhibit 2 under Patterson-Gray are the list of
17 -- electronic list of 11,600 MPAA titles or
18 not?

19 A Again, I don't recall -- I don't
20 know if I received the electronic list of
21 11,600. I'm not sure.

22 Q Okay. At some point, you

Neal R. Gross & Co., Inc.
202-234-4433

1 calculated your regression analysis. And I
2 know that's kind of a very broad term, but,
3 obviously, you calculated your electronic --
4 excuse me, you calculated your regression
5 analysis. And then I believe you testified
6 that resulted in a temp file, correct? Which
7 was not saved, correct?

8 A Again, it resulted in -- and we
9 just looked over the log files, so maybe I
10 could better articulate it or it is better
11 envisionable, is that when the computer ran
12 that code of predict double -- and "double"
13 means lots of precision -- view, hat, P-O-I --
14 P-O-I is for Poisson.

15 So when I do that, then the
16 regression has in its memory for every single
17 quarter-hour the prediction. It was not saved
18 to the hard drive at all. Does that answer
19 your question?

20 Q I think so. It was not saved on
21 the hard drive. And if it wasn't saved to the
22 hard drive, certainly it wasn't produced.

Neal R. Gross & Co., Inc.
202-234-4433

1 A No.

2 Q You merged the Nielsen diary data
3 with the Tribune Media list of stations,
4 correct? Want me to say it again?

5 A I lost focus.

6 Q Sure. No problem. Merged the
7 Nielsen diary data with the Tribune Media list
8 of stations.

9 A Right.

10 Q Did that result in an electronic
11 file?

12 A Yeah. It -- you're starting to do
13 -- there were fingers, and I just want to make
14 sure -

15 Q Right.

16 A Yeah. So these two fingers must
17 -- would have resulted in a temporary file
18 that I don't -- I can't imagine was produced.

19 Q Okay. You merged the Nielsen
20 meter data with the Tribune Media list of
21 stations. That's probably --

22 A Another two fingers, yes.

Neal R. Gross & Co., Inc.
202-234-4433

1 Q And was that saved?

2 MR. OLANIRAN: Objection. Your
3 Honor, I think all of these questions have
4 been asked and answered. Dr. Gray has
5 described extensively, probably at least four
6 or five times now, how he performed the
7 regression analysis. And this is just another
8 way --

9 CHIEF JUDGE BARNETT: I don't need
10 a narrative, Mr. Olaniran.

11 Do you want to respond to the
12 objection?

13 MR. BOYDSTON: There's three that
14 I'm pretty sure I haven't asked, and, if I
15 have, it's not because I'm trying to be
16 pedantic but because it is complicated and
17 sometimes it's described one way and sometimes
18 it's described another.

19 CHIEF JUDGE BARNETT: Overruled.
20 Go ahead.

21 BY MR. BOYDSTON:

22 Q Should I reread it -- or restate

Neal R. Gross & Co., Inc.
202-234-4433

1 it? I am reading it, but would you like me to
2 restate that?

3 A Please.

4 Q That you merged the Nielsen meter
5 data with the Tribune Media list of stations.

6 A Right. Yes. So that merge would
7 result in another temporary file to be merged
8 again later, and that temporary file was not
9 saved or produced.

10 Q Thank you. You created the
11 distant rating figures from the Nielsen diary
12 data and the CDC distant household
13 information.

14 A Is that my writing?

15 Q No, it's probably not. It is
16 probably my scribbling from --

17 A Okay.

18 Q -- trying to read your writing, or
19 I should say interpret your writing. You
20 created the distant rating figures from the
21 Nielsen diary data and the CDC distant
22 household information.

Neal R. Gross & Co., Inc.
202-234-4433

1 A I don't understand that. I don't
2 remember doing anything like that. I'm a
3 little confused by that description.

4 Q Okay. Did you create a -- what
5 you would call distant rating figures?

6 A What I'd call what? I'm sorry.

7 Q Did you calculate what you would
8 call distant rating figures?

9 A I'm not sure what -- again, by
10 "distant ratings," are you referring now to
11 the regression results? I thought we just
12 asked and answered in terms of the Poisson
13 regression predictions on the quarter-hour
14 basis. Those numbers?

15 Q I think that's right, yeah.

16 A Okay. Again, that one was -- that
17 was asked and answered about eight times.

18 Q Fair enough.

19 A Yeah.

20 Q Okay. We don't need to do it
21 again, then. Sorry. But you allocated value
22 between the IPG-claimed and the MPAA-claimed

Neal R. Gross & Co., Inc.
202-234-4433

1 programming. I think you said that was
2 essentially the -- either the last step or the
3 penultimate step, correct?

4 A By allocating, are you talking now
5 about the total -- the percentage to MPAA and
6 the percentage to IPG?

7 Q Yeah, the value.

8 A Yeah. That will be in the expert
9 testimony. That's the 99.8 percent or so by
10 year.

11 Q Okay. So is that the final step
12 or is it the next-to-final step?

13 A Well, once I calculate the total
14 viewership and calculate the percentages, that
15 is going to be the final step.

16 Q Makes sense to me. Just checking.
17 Did that process -- I assume that process
18 involved also the creation of a computer
19 operation that resulted in some sort of a file
20 or temporary file. Am I correct?

21 A Well, again, what that -- so what
22 that process is is you have all of those

Neal R. Gross & Co., Inc.
202-234-4433

1 numbers, so you tell the computer "Add them up
2 and divide by the sum of those two added-up
3 numbers, and spit out that number," and that
4 number I think is actually in the log file.

5 So the number -- and I can read
6 them because it will be in the testimony, if
7 you want me to read them again --

8 Q I don't need you to. I understand
9 what you're saying. The numbers that were
10 summed, the list of numbers that were summed
11 to come to that result, are those --

12 A This is now number nine, because,
13 again, that is the predicted distant viewing
14 for every single show on a quarter-hour basis.

15 Q And I think I asked about that
16 before and said, "Does that exist in some sort
17 of an electronic or paper format" and the
18 answer was no?

19 A You have asked many times. The
20 answer is no. Again, that's this millions of
21 observations, and it's retained in RAM.

22 Q And it's retained in RAM, was not

Neal R. Gross & Co., Inc.
202-234-4433

1 saved, was not produced, correct?

2 A Right.

3 Q Okay. And in addition to not
4 being produced, it wasn't otherwise -- it
5 wasn't produced to IPG. In addition to that,
6 it wasn't otherwise presented to the Judges
7 either, correct, in that form?

8 A In terms of millions and millions
9 of quarter-hour distant viewing? That was not
10 produced to the Judges, no.

11 Q Yeah. Other than your testimony
12 about it, it has not been produced to the
13 Judges in another form.

14 A I have not produced them millions
15 and millions of numbers, no.

16 Q And this is a close cousin, but
17 it's a different question, is it -- did you
18 ever produce any document or computer file
19 which states the value for all of the
20 particular broadcasts, or any of the
21 particular broadcasts, that we are dealing
22 with in these proceedings? Where one could go

Neal R. Gross & Co., Inc.
202-234-4433

1 down and say, okay, despite we -- one can look
2 and see that the Tribune data says, okay, we
3 got that broadcast that date; the MPAA value
4 for that is 35. Is there any such document?

5 A No, there is not any such document
6 that I am aware of.

7 JUDGE STRICKLER: Counsel, may I
8 ask a question?

9 MR. BOYDSTON: Sure.

10 JUDGE STRICKLER: Dr. Gray, you
11 said that you had a team, another team, take
12 a look at your data and run it, and they came
13 up to the same conclusions that you did,
14 correct?

15 THE WITNESS: Correct.

16 JUDGE STRICKLER: Was that also
17 within your organization where you work?

18 THE WITNESS: It was within my
19 organization, yes.

20 JUDGE STRICKLER: And as far as
21 you know, did you supply or has MPAA supplied
22 in this proceeding the documents to IPG which

Neal R. Gross & Co., Inc.
202-234-4433

1 you supplied that other team in order to
2 replicate your analysis?

3 THE WITNESS: My understanding is
4 yes.

5 BY MR. BOYDSTON:

6 Q You said your understanding. Is
7 there any reason to qualify it?

8 A Because I did not see them do it.

9 JUDGE STRICKLER: Who is the
10 "they"?

11 THE WITNESS: MPAA. You said,
12 "Did MPAA provide it to IPG?" They told me
13 they did. So that's why I don't like to say
14 yes unless I witnessed it myself.

15 MR. BOYDSTON: Makes perfect
16 sense.

17 BY MR. BOYDSTON:

18 Q In your description of the MPAA
19 methodology, you characterize it as a measure
20 of "potential relative viewership." Is that
21 -- do you recall that that was a quote I
22 pulled out of your --

Neal R. Gross & Co., Inc.
202-234-4433

1 A By the MPAA or IPG?

2 Q The IPG. I switched gears.

3 A Yeah. You're switching. Okay.
4 So I'm -- repeat it, please.

5 Q I'll reissue it. In your
6 description of the IPG methodology, you
7 characterized it as a measure of "potential
8 relative viewership."

9 A It sounds like my description,
10 yes.

11 Q Okay. Where is viewership, in
12 your view, in IPG's station and weight factor?

13 A Well, it's in there -- it's
14 actually on the potential side. That's why I
15 said potential viewership. The viewership is
16 in the time period weight factor, and the time
17 period weight factor, again, is a -- sort of
18 a viewership index.

19 Multiply that by the population of
20 distant viewers, which is the station weight
21 factor; together, you get this potential
22 viewership measure.

Neal R. Gross & Co., Inc.
202-234-4433

Q Where does viewership come into the length of a program?

A It comes in, in a sense, on a -- I hope I was careful earlier -- on sort of a per minute basis, if you will. So if you have a certain number of viewers over a half hour, and over the full -- sort of over a full hour, you will have twice as many on sort of a one-half hour basis.

Q You referred to time period weight factor. Where does actual viewership come into the time period weight factor?

A Well, it comes in insofar as he -- this time period weight factor is -- the way it's described is a fraction of the sort of average viewing that takes place over a 24-hour period, average for the particular day part divided by the total viewing over that 24-hour period. So it's a percentage of viewing during that day part.

Q All right. So you seem to be attempting to characterize the decisions that

Neal R. Gross & Co., Inc.
202-234-4433

get made by the CSOs as being viewership-based, correct? That's your paradigm.

A Well, in terms of how relative value can and should be measured, given the homogeneity of programs at issue, yes.

Q And you stated in your direct testimony that the higher the viewership of a program the more valuable it is to a CSO because it leads to higher subscriber retention and attraction. And you've talked about that I think in your testimony.

I haven't -- I am not aware of you citing any outside authority for that proposition. Is there some?

A Well, I would say, one, as I described earlier -- my earlier experiences with a couple of CSOs, I did cite a couple program suppliers in my testimony, I think in a footnote, saying how, from their perspective, when negotiating licenses outside this particular setting of compulsory licenses, that body size matters.

Neal R. Gross & Co., Inc.
202-234-4433

And also, finally, the regression analysis, C.2, looks at the relationship between viewership and subscribers.

Q You referred back to your testimony about working with certain CSOs. How many have you worked with?

A Two.

Q If I could have you take a look at your rebuttal testimony. I don't know whether it's -- it may be up there; I don't know.

A Yes.

Q Okay. Well, good. You include a Table 1, I think, at page 7.

A Yes.

Q And you identify Nielsen viewing households, correct?

A Yes.

Q And the purpose of that is to demonstrate how IPG's time period weight factor is invalid against "household viewership," correct?

A "Invalid" is a strong word for

Neal R. Gross & Co., Inc.
202-234-4433

this particular example. The purpose of the example was just to show how -- give a couple of illustrations of how a program that airs at the same time on the same station might have very different viewing.

Q And the numbers there are 2,108, 765, 8,635, and 18,621, correct?

A Correct. And, again, these are anecdotes, but yes.

Q And isn't it true that even Nielsen itself acknowledges that when you get under 10,000 households the relative error rates begin to get high, correct?

MR. OLANIRAN: Objection. Your Honor, asked and answered.

CHIEF JUDGE BARNETT: Sustained.

BY MR. BOYDSTON:

Q Well, based on that, wouldn't that suggest that these figures are invalid, that the conclusion that you are trying to draw is invalid to the extent that there is a very high error rate when you get below that

Neal R. Gross & Co., Inc.
202-234-4433

1 threshold?

2 A No.

3 Q And why not?

4 A Well, these are from essentially
5 sample observations, measured with relative
6 error but -- and these are sample observations
7 that ultimately you are going to be aggregated
8 up, as we do later, and they show or
9 demonstrate that the point estimates, whether
10 or not they are measured with relative error,
11 are very different.

12 Q Well, would you change your
13 opinion, to the extent that the relative error
14 rate for those under 10,000 is as high as 63
15 percent?

16 A I would not change my opinion if
17 the relative error rate was approaching 100
18 percent, which is what actually Mr. Lindstrom
19 testified to, in I believe it was the 1989
20 proceeding.

21 Q Now, with regard back to the time
22 period weight factor, you pointed out the

Neal R. Gross & Co., Inc.
202-234-4433

1 error that was made in the IPG calculation.

2 And I believe we talked about this before, but
3 I am mixing up my experts at the moment.

4 You did identify, though, that IPG
5 had only included six day part times in
6 calculating its time period weight factor, not
7 48.

8 A That's correct, yes.

9 Q Yes. And that's right, we agreed
10 that a mistake like that ought to be
11 corrected. Now --

12 A I would think most mistakes should
13 be corrected, though.

14 Q With regard to the number of
15 stations studied, you've said that you think
16 that the number of stations that were in the
17 MPAA study was sufficient. But from a broader
18 standpoint, to the extent that things like
19 cost, time, other factors like that, were no
20 object, would it ever be better to have a
21 study based on only 81 stations versus three
22 times that, 240, 230? Considering that cost

Neal R. Gross & Co., Inc.
202-234-4433

1 and time and effort are not an issue.

2 A Two things. One is that, bear in
3 mind that my analysis is based on
4 approximately 120 random stations per year.
5 The Kessler sample did have one year where it
6 was 81.

7 But to answer your question, and I
8 think I said this on the record, more data is
9 better if it's randomly chosen. I'd rather
10 have 120 randomly chosen stations than 2- or
11 300 non-randomly chosen stations.

12 Q You criticized the IPG study
13 because it was not including Form 1 and 2
14 cable systems, correct?

15 A I did note that, yes.

16 Q Now, where does the information on
17 Form 1 -- the information on Form 1 and Form 2
18 cable systems, in terms of their distant
19 program -- or their distant retransmissions,
20 where does that come from, if you know?

21 A From the Cable Data Corporation.

22 Q And, in fact, it does not come

Neal R. Gross & Co., Inc.
202-234-4433

1 from the documents that are filled out and
2 turned in to the Copyright Office like Form 3
3 stations do, correct?

4 A I believe that is right.

5 Q They come -- those Form 1 and
6 Form 2 figures come from some sort of process
7 that the CDC does on itself, correct?

8 A That's my understanding.

9 Q Do you know any of the details of
10 that methodology?

11 A I do not know.

12 JUDGE STRICKLER: Counsel, can I
13 ask a question?

14 MR. BOYDSTON: Yes.

15 JUDGE STRICKLER: Before we get
16 too far away from Table 1 in your rebuttal
17 testimony, Dr. Gray --

18 THE WITNESS: Yes.

19 JUDGE STRICKLER: -- on page 7,
20 you list the broadcast dates. Do you see the
21 second column? I'll wait until you get there.

22 THE WITNESS: Yes.

Neal R. Gross & Co., Inc.
202-234-4433

JUDGE STRICKLER: Would you know -- you probably don't know off the top of your head, but do you know whether those dates were weekdays or weekend days?

THE WITNESS: The answer is they are uniform. We did actually check, so I -- they are either both weekday or both weekend. One or the other. But I don't know. Someone with access to the internet can Google it.

JUDGE STRICKLER: But you thought your pairings were consistent, so November 16, 2003, and April 26, 2003, were either both weekdays or both weekends, and the same for the other pairing.

THE WITNESS: Right. That's my -- yeah, that's my recollection. Yes.

JUDGE STRICKLER: Do you recall -- you've done a rebuttal criticizing and commenting on IPG's methodology. Do you know whether they distinguish within that -- whether IPG distinguishes its methodology with regard to broadcast time between times on

weekends and times during weekdays?

THE WITNESS: Well, that's -- it's somewhat of a complicated answer. But the answer is, not in the way they described it; but, yes, in the way they did it. And so by that what I mean is their description of doing the time period weight factor on a half-hour basis doesn't distinguish.

However, their six broad day parts appear to have -- so there are just six values as opposed to 48, but those six vary by weekend and weekday. That makes sense.

JUDGE STRICKLER: And do they give different weight factors for, say, 3:00 in the afternoon on a Sunday versus 3:00 in the afternoon on a Tuesday?

THE WITNESS: Well, they are very broad. So it would be like -- it was like several hours long --

JUDGE STRICKLER: How many hours?

THE WITNESS: Well, there are six throughout the entire or six time period

weight factors throughout the entire week. I think there might have been -- better if he does it. Maybe I'll stop. I don't remember.

JUDGE STRICKLER: Okay. Thank you.

BY MR. BOYDSTON:

Q Isn't it true that Ms. Kessler's station sample relied on Form 3 data and not Form 1 and Form 2?

A That's my understanding, yes.

Q Now, with regard to your argument or your observation or critique, if you will, that the IPG study excluded certain compensable program titles, isn't it true that both the MPAA and IPG obtained data from Tribune Media?

A I don't know what IPG received or obtained, other than what was given to them from us, from MPAA, excuse me.

Q Okay. In your review of the IPG testimony, for what it's worth, did you see reference there to inclusion of the Tribune

Media data in the methodology?

A Yes.

Q And did IPG include title information with any variation from what you saw in Appendix C to the Kessler testimony?

A I'm not quite sure I understand the question. What do you mean by, "Did they include title variation?"

Q Well, did IPG's -- when IPG was calculating the value of the MPAA titles, was there any variation that you noticed in those titles with that that was in the MPAA data, specifically, in Ms. Kessler's Appendix C?

A I'm sorry. No, I honestly don't answer -- understand the question. And it's -- I don't know if it's me or you. I apologize.

Q Okay. My understanding is that you had a criticism, and I think I can illustrate it like this, you'll recall in your direct testimony your suggesting that there was -- that IPG was flawed because they had

1 given credit for a program maybe called Fresh
2 Prince of Bel-Air but not The Fresh Prince of
3 Bel-Air.

4 A Okay.

5 Q Did you actually see derivations
6 like that between the actual list in Exhibit
7 C to the Kessler testimony versus the database
8 of MPAA programs that IPG was using? You
9 would actually see that?

10 A Yes, I actually saw the sort of
11 derivations -- I saw examples of The Fresh
12 Prince of Bel-Air and Fresh Prince of Bel-Air
13 in the IPG data. Is that what you're asking?
14 Yes.

15 Q Okay. Has anyone ever told you
16 from the MPAA why it is that the MPAA simply
17 didn't provide those exact titles to IPG in
18 electronic format, so that such error could
19 never possibly occur?

20 A I don't quite -- why would the
21 error occur, not occur -- oh, do you mean in
22 -- I don't quite understand the question

Neal R. Gross & Co., Inc.
202-234-4433

1 again.

2 Q Did anyone at the MPAA ever
3 explain to you why they refused to provide IPG
4 with an electronic version of all of those
5 titles to guarantee that they would be
6 accurate when IPG used them?

7 A I didn't have any conversations
8 with MPAA regarding this.

9 Q With regard to the inclusion of or
10 non-inclusion -- with regard to -- I should
11 just say regarding Canadian television station
12 broadcasts -- actually, you have already
13 testified about that.

14 You did state that you saw that
15 Canadian broadcasts were more prevalent in
16 IPG's programs than in the MPAA's. Do you
17 recall the percentage?

18 A What I stated was -- I want to
19 make sure I get this right -- is the non-
20 compensable programming that IPG attributes to
21 their relative value measure is greater for
22 IPG programming than it is for MPAA

Neal R. Gross & Co., Inc.
202-234-4433

1 programming.

2 Q Now, with regard to you said you
3 got a critique about inclusion of claims
4 dismissed by the Judges, is it not the case
5 that IPG's revised numbers have excluded the
6 program broadcast dismissed by the Judges
7 pursuant to their March 21, 2013, order?

8 A I haven't been able to replicate
9 their resubmitted numbers yet. So I don't
10 know if they --

11 Q Okay.

12 A -- excluded them.

13 Q You have asserted that Raul Galaz
14 -- implicitly was your word -- implicitly
15 stated that there was little or no
16 relationship between the relative number of
17 subscribers and fees generated by a station.
18 Do you know where exactly he stated that?
19 Because we don't.

20 A Oh. I would have to see his -- I
21 don't -- do you have his direct testimony in
22 front of you?

Neal R. Gross & Co., Inc.
202-234-4433

1 Q It's there in front of you. I
2 don't think -- it's 4:30 -- we're probably
3 going to look at it. But off the top of your
4 head right now, are you certain that you
5 actually read him -- you've said he said so
6 implicitly. Do you remember where in his
7 analysis you got that? And, if you don't,
8 that's good.

9 A I think so.

10 Q It's the end of the day.

11 A Well, maybe if you could tell me
12 where in my testimony I said it, because I
13 would hope I would footnote it.

14 Q I believe you said it on page 17.

15 A Thank you. I don't see it on
16 page 17. Hold on.

17 CHIEF JUDGE BARNETT: How much
18 more do you have, Mr. Boydston?

19 MR. BOYDSTON: One more question.

20 CHIEF JUDGE BARNETT: Okay.

21 THE WITNESS: Well, let me find
22 that, because it's certainly my recollection

Neal R. Gross & Co., Inc.
202-234-4433

1 that he tried to suggest that they were very
2 different. And I thought I had a quote in
3 here as well.

4 BY MR. BOYDSTON:

5 Q Well, you know, I think we,
6 unfortunately, are coming back tomorrow for --
7 probably for redirect, so I don't mind letting
8 you figure it out overnight if you'd like
9 that.

10 MR. OLANIRAN: Your Honor, I
11 actually have the page --

12 THE WITNESS: Oh, thank you.

13 MR. OLANIRAN: -- that is being
14 referenced. It's page 18 of Dr. Gray's
15 testimony I think is what Mr. Boydston is
16 referring to.

17 CHIEF JUDGE BARNETT: Okay.

18 THE WITNESS: Is this the direct
19 testimony or the amended?

20 MR. OLANIRAN: Rebuttal.

21 THE WITNESS: What are we looking
22 at now?

Neal R. Gross & Co., Inc.
202-234-4433

1 BY MR. BOYDSTON:

2 Q Why don't we just put this over
3 until tomorrow?

4 A No. I'll get it, but that's --
5 and maybe that's why I can't find it. So it's
6 page 18 on the rebuttal. Thank you.

7 Q Okay.

8 A In case there is not a tomorrow.
9 You never know, counselor.

10 (Laughter.)

11 So I have a quote from the Galaz
12 testimony. Oh. Is it "On a station-by-
13 station basis, due to the vast discrepancy
14 between the number of cable retransmission
15 subscribers and the amount of fees generated
16 by each of the cable stations upon which
17 transmitted broadcasts appeared," to me when
18 he talks about the vast discrepancy between
19 the two, he is implicitly saying that there is
20 a big difference.

21 Q Well, isn't it accurate that some
22 stations have high subscriber rankings and low

Neal R. Gross & Co., Inc.
202-234-4433

1 fee generation ranking, and vice versa?

2 A Well, there's a mathematical
3 correlation of .998 between the two. So --

4 Q But on an individual basis, isn't
5 it true that there are some stations that
6 happen to have a particular disparity between
7 fees generated and number of subscribers? Not
8 in the aggregate, but I'm saying on a station-
9 by-station basis.

10 A But the point of this is to say he
11 has two station weight factors. And I don't
12 want my testimony to get too long. All my
13 comments that relate to --

14 Q Okay. Well, let me just cut it
15 short, because I understand -- and you have
16 given your methodology and you have given your
17 explanation, and that's fair. What I'm asking
18 now is a very discrete question.

19 Is it not true that there are some
20 stations that, peculiarly enough, may have fee
21 generation at a high level but subscribership
22 at a low level, and vice versa? Does that or

Neal R. Gross & Co., Inc.
202-234-4433

1 does that not occur? Not what does it mean,
2 what did -- just isn't that the truth?

3 A But that has nothing to do with
4 what I'm saying here, though.

5 Q I guess the answer is --

6 A Well, yeah, there's differences,
7 but my point is that --

8 Q There are differences. There are
9 circumstances like that, correct?

10 A -- it's redundant. That's why I
11 say the two metrics are redundant. So there
12 is no need for me to talk about both in
13 detail. There really --

14 Q Well, actually, there is a need
15 because I'm allowed to ask you questions, and
16 I'm allowed to get answers.

17 CHIEF JUDGE BARNETT: All right.
18 It's the end of the day. Let me ask, is there
19 going to be cross-examination from the
20 devotionals?

21 MR. MacLEAN: No, Your Honor.

22 CHIEF JUDGE BARNETT: And how much

Neal R. Gross & Co., Inc.
202-234-4433

redirect are you going to have, Mr. Olaniran?

MR. OLANIRAN: Probably about 15 minutes worth, if that.

CHIEF JUDGE BARNETT: Fifteen?

One five?

MR. OLANIRAN: One five, yes.

CHIEF JUDGE BARNETT: Okay. We are going to be at recess, then, until 9:00 in the morning.

Thank you.

(Whereupon, at 4:35 p.m., the proceedings in the foregoing matter were adjourned, to reconvene at 9:00 a.m., the following day.)

Neal R. Gross & Co., Inc.
202-234-4433

A	accumulate 388:19	680:5	479:2 521:19	aimed 378:17
abbreviated 512:21	550:7	additional 370:5	608:19 615:3	494:7
670:6	accumulated 392:6	378:21 379:7,10	693:15,16	air 477:22
abbreviation	accumulating	379:12 381:6	age 494:7 574:8	aired 473:3,7,13
650:21	388:20	383:5 384:11	agencies 435:10	479:1 480:16
ABC 489:15	accuse 386:3	423:14 444:11	554:22	484:11 486:13
ability 377:14	392:7,8 394:18	466:10 472:1	aggravated 410:11	airing 481:9 482:5
443:9 571:11	410:13 424:22	479:14 490:11	411:19	482:11 486:21
able 394:20 408:16	498:11 534:22	552:15 587:9	aggregate 371:15	airings 391:1
422:8 429:6	559:1 588:16,17	additions 442:4	376:12,14 377:22	airs 557:6 687:3
462:20 470:9	588:21 624:15	address 595:21	378:12 383:16	albeit 444:15 477:4
549:15 585:10,12	697:6 701:21	603:5	384:10 385:13	alleged 436:15
606:7 615:19	accurately 489:7	adjourned 704:13	387:8,12 388:17	allocated 677:21
622:11 698:8	acknowledge	adjusted 515:17	388:18 389:3	allocating 445:7
above-entitled	608:16	adjustment 405:4	394:14 395:3,6,6	678:4
364:15	acknowledged	adjustments 628:6	417:12 462:21	allocation 437:5
above-referred	396:8 541:4	administrative	519:9 546:4	440:16 444:3
394:2 441:13	acknowledges	435:3	595:8 600:9 607:7	466:3 467:12,22
625:8 626:6 645:4	518:2 687:11	admission 443:10	607:19,21 613:13	470:15 475:2,19
646:17	acknowledging	443:11	613:21 615:16	491:1,15 566:8
absolute 432:12	602:18 604:17	admit 395:22	702:8	605:22
661:20	Act 444:14	admitted 394:8,9	aggregated 413:17	allocations 441:1
absolutely 382:22	activity 670:19	396:11 397:6,8	414:1 688:7	469:12
498:21 528:19	actors 450:4,5	443:16 599:18,20	aggregates 381:16	allow 404:22
591:20 633:1	actual 369:15	646:12,16,20	383:4 528:11	540:11 571:6
639:21 665:17	436:15 444:22	adults 545:18	aggregating 412:2	allowed 400:9
666:20	478:5 480:7	adventure 462:13	aggregation 391:15	703:15,16
abstract 549:14	589:11 599:11	advant 529:6	412:6 415:4	alluded 552:6
558:3	612:13 626:16	advertising 372:2	aggressive 586:21	ameliorating
academic 664:5	684:11 696:6	573:4,5,11,12,14	ago 389:5 426:13	583:12
accents 483:11,16	add 399:13 410:11	575:13,17,17,21	463:13,19 494:17	amended 441:17
accept 413:20	410:15 420:2	576:3,8,10	521:14 524:21	442:6 512:14
acceptable 389:2	467:17,19 479:17	advised 668:18	525:1,5 576:21	521:1,5 700:19
596:5,10	509:13 510:21	669:2	596:19 637:18	America 366:5
accepted 381:2	631:15,15,17,18	Advisors 436:4	658:3	433:14
461:7	679:1	Advisory 434:16	agree 379:6 455:8	amount 412:9
access 652:11	added 505:21	aff 656:2	520:8 526:10	415:10 463:1
692:9	509:22 510:4,5	affect 408:18	527:4,15 546:3	484:7 529:5 592:6
accord 589:6	added-up 679:2	436:11 515:22	555:22 556:14	594:13 701:15
accorded 588:18	adding 379:1	660:19	568:19 578:15	amounts 436:14
accords 409:22	390:21 391:7	affiliate 450:2	666:7	analogy 546:20
410:18 411:13	392:10 552:16	656:6	agreed 540:20	606:14 632:6
412:13	630:8	affiliation 466:19	689:9	analyses 471:6
account 383:7	addition 379:5	639:3 646:5	agreements 543:8	472:1,15 497:9
423:16 457:9	381:9 423:13	affixed 404:3 408:5	ahead 413:2 491:19	512:3 573:22
478:9				

Neal R. Gross & Co., Inc.
202-234-4433

390:16 391:3	and/or 439:1	533:22 650:17	appreciably 427:4	articulate 673:10
394:11 402:6,13	469:4 478:10	663:8	appreciate 397:13	ASCAP 559:8
403:12,13,14,17	482:6 494:14	apologies 459:11	459:21 499:9	ascertain 526:3
403:19 404:4,6,12	533:1 562:12	601:21 621:6	502:9 510:1	aside 595:13
404:18,19,21	625:2	apologize 468:20	512:16 548:21	641:17
405:14 406:12,15	anecdotes 687:9	524:16 583:1	569:21 592:3	asked 380:10,17
406:19 409:5	Angeles 365:21	587:19 589:15	approach 441:5	382:11 413:12
437:8 444:22	576:8,9	592:18 595:5	458:10,17 460:8	415:11 425:12
447:15,18 450:8	angle 540:17	608:6 613:8 617:1	462:10 468:9	431:2 438:18
450:14 453:8	answer 372:11	618:14 621:11	448:22 517:6	440:13,15,21
458:15,18 460:6,9	382:16 399:14	638:6 642:12	526:10 527:16	453:7 460:7 469:6
460:12,13,15,16	403:3 408:16	670:15 695:17	567:10 569:13	511:14 540:17
461:9,10,11	412:22 413:11	apparently 557:7	approaching	587:22 593:16
462:11,14,19	425:16 427:16	650:15 656:17	457:14 688:17	595:61 603:6 616:7
463:5,16 466:2,6	429:3 457:13	appear 378:5 535:3	appropriate 438:19	616:14 628:14
466:12 468:5	492:11 507:22	693:10	446:3 461:10	653:4 664:19
470:9,11 472:21	508:9 511:7	APPEARANCES	481:16 520:9	669:11,12 670:11
483:19 488:13,17	529:17 553:9,9	365:1	Approval 534:4	675:14 677:12
488:21 489:2,18	562:20 571:8,16	appeared 370:16	approximate	677:17 679:15,19
489:20 490:7,19	571:17 574:3	370:19 396:8	642:15,17	687:15
496:20 500:7	575:16 584:17,19	489:9 701:17	approximately	asked 409:19
504:14,16 505:7,8	588:4 592:22	appearing 624:17	372:3 387:17	415:22 416:2
511:19 512:7	593:21 600:17	appears 378:7	437:17 449:3	412:22 508:8
519:18 520:10,15	608:5 617:5	483:14 525:5	495:1 479:14	511:8 534:3 537:1
532:10 547:20	620:22 626:3	527:5,7,9,20	468:24 499:15	539:46,66 545:13
549:2,3 550:22	630:9 635:6	534:6 554:9 620:7	508:17 530:11	567:20 594:19
553:12,18,21	642:16 643:9	651:12 654:7	531:17,18 566:2	597:19 603:16,16
558:15,19 586:10	646:14,21 667:3,3	appendices 442:2	566:18 578:5	635:4,5 662:3
591:13 592:2,5,8	669:15 673:18	appendix 512:14	620:7 690:4	664:6 667:16
592:21 594:6,7	679:18,20 690:7	512:19,20 553:19	approximation	672:13 696:13
598:15 609:9,22	692:5 693:3,4	574:22 620:19	642:6,8	702:17
610:14 614:11	695:15 703:5	621:13 638:22	April 692:12	aspect 382:8
616:6,9,15,19,21	answered 381:2	640:13 643:17	architect 588:1	408:11 573:5
622:2 623:8	396:4 415:12	669:18 695:13,8	area 438:12	aspects 405:5 523:1
627:21 628:12	511:14 581:9	applicable 569:8	areas 438:10	526:9 665:5
629:3,7,10,12	595:1 653:4 675:4	application 399:7	arguably 487:8	asserted 620:16
630:13,21 641:22	677:12,17 687:15	437:12 475:11	argue 517:6	698:13
645:20 673:1,5	answering 384:3	481:17,18 519:22	arguing 666:2	assertion 485:10
675:7 682:2 686:2	545:7	520:2	argument 538:21	asserts 485:15
690:3 699:7	answers 383:2	applied 438:13	554:17 694:11	assess 439:5
analytical 468:9	395:2 396:5	566:4	arm 587:11	asset 445:17
analyze 387:7	587:21 617:4	applies 526:5	ARNOLD 365:9	assets 445:22
593:4	703:16	561:15 582:10	arrive 508:21	assigned 60:9 12
analyzed 589:1	ante 557:4	apply 555:17,20	630:5	assigning 541:17
analyzing 436:13	anticipating 645:8	applying 652:19	arrived 463:14	assist 627:17
619:12	anyone 561:14	appreciable 428:8	509:20	assistance 540:17
Andromeda 486:8	anyway 392:20	428:10	art 577:2	assist 438:2

Neal R. Gross & Co., Inc.
202-234-4433

associated 402:11	avoid 399:5 409:21	400:4 484:20.22	651:20 659:10	516:21 519:8
436:13 439:17	430:16	411:7 412:18.21	685:2 687:18	523:16 524:18
440:22 452:20	aware 408:12,15	413:3 417:2 419:6	689:21 690:3	525:4 533:16
468:11 494:15	540:2 518:16	421:13,16 422:1	basic 439:14	536:5 545:7 571:9
497:15 517:19	542:18,22 589:9	423:6,10 425:3,8	543:16 544:7	588:2 618:15
572:4	597:22 604:1	433:10,14 443:3,7	555:5	619:18 620:15
Association 366:5	681:6 685:12	431:19 440:10	basically 502:12	621:22 623:9
433:14	a.m. 364:16 368:2	447:1 443:15	545:10 567:3	625:5,14 672:11
assume 372:15	418:2,2,8,17,20	458:19 459:4,9,18	612:16	673:5 688:19
376:7 417:12	418:21 459:7,8	487:19 488:8	basis 396:2 404:2	689:2 691:4
649:3 678:17	486:15,17 643:5	492:4,6 493:13	406:16 407:19	699:14
assumed 654:8	704:13	511:15 521:14	411:19 449:9	bell 591:3
assumption 514:20		522:1,18 538:2	463:10 464:22	Bel-Air 483:5,8
549:18		539:9 540:11	467:11 477:10	696:2,3,12,14
attaches 508:4		557:16 568:1,4	478:4 485:19	bench 425:4 480:14
attempt 396:21	B 510:10	594:22 608:18	492:8 505:13	benchmark 472:12
attempted 641:21	back 368:3 377:21	609:2 625:7	506:20 515:4	513:4
attempting 684:22	400:12 412:4	646:15 653:5	528:2 532:3,4,6	beneath 650:20
attention 621:8	425:20 447:20	668:9 675:9,19	538:9 560:19,20	651:10
attorney 368:21	459:8 461:8	687:16 699:17,20	598:9 609:17	beneficiaries
attract 574:12	465:21 484:5	700:17 703:17,22	612:9 614:19	444:16
attracted 537:8	487:18 488:10	704:4,7	629:15 630:21	best 408:9 412:6
attracting 456:13	489:19 490:6,10	Barnett's 424:7	677:14 679:14	343:9 446:21
attraction 537:14	490:18 493:1	base 386:20 387:6	684:5,9 693:8	502:4 542:11
685:10	525:21 555:5	394:19 562:14,16	701:13 702:4,9	551:20
attributable 440:17	557:17 583:14	based 369:17	BBC 490:12	better 392:10,10
589:13	584:8 585:21	385:10 389:8	bear 624:15 690:2	425:16,17 471:16
attributes 697:20	587:11 603:4	394:11 399:21	bears 551:1	471:18 498:17
audience 372:7,10	608:22 609:22	400:14 401:10	553:13	501:11 528:22
388:11 406:12	611:1,20 612:16	418:6 429:16	beg 407:21 523:17	529:4,5,8,10,11
407:19 457:12	614:19 617:3	450:10 451:5	624:4 671:2	546:5 548:7
August 441:17	628:8 630:2,16	462:17,22 463:4	began 429:10	576:18 589:14
658:4	634:9 654:21	464:7,16,17 467:3	beginning 422:4,5	673:10,10 689:20
authenticate 396:3	655:11 658:2,14	475:16 483:3	649:1 654:22	690:9 694:2
533:19	660:4 686:4	486:1 491:6	begins 525:18	Bewitched 551:20
authority 685:13	688:21 700:6	501:18,21 502:1	begins 645:16	552:5,7,16
available 421:6	background 434:9	503:8,9 510:19	begun 365:2,14	beyond 379:11
447:8 454:21	667:19	509:6 510:15	366:4 370:19	620:2
Avenue 364:14	balance 576:18	532:14 535:10	415:16 416:4,11	big 392:17 422:9
365:20	ball 478:21 560:7	537:2 549:3 558:6	439:2 543:14	428:13 447:22
average 430:6	ballpark 579:5	560:4,8 561:3	belatedly 395:22	500:10 553:13
462:6 465:4	banding 581:13	562:9 565:4	believe 401:20	582:19 583:2
476:16,17 477:9	bar 473:4,5,8	574:16,20 576:19	Belief 386:1	592:1 621:29
531:3 610:19	BARNETT 364:19	578:7 587:11	394:15,17 400:15	630:7 635:1 653:1
661:5,14,22	368:3,11 381:1	598:5 602:11	401:14,11 409:10	701:20
684:16,17	395:19 397:3,7,11	605:15 612:2	474:22 512:7,15	bigger 612:16
averaging 661:18	397:17 398:8,17	616:2 626:11	514:11 5	

Neal R. Gross & Co., Inc.
202-234-4433

biggest 422:2	415:7,13,15 425:6	449:21,22 466:18	buy 556:9 635:1	460:19 485:16
billion 372:2	425:10 440:8	471:5 494:5,6,20	buyer 445:17 555:7	calculating 414:19
bit 378:19 415:21	443:13 493:14,15	494:22 532:3,4	555:10	565:19 588:22
442:22 446:16	493:18,20 498:6	536:6 541:18	buyers 557:1	589:12 689:6
455:18 458:3	502:5,10 511:16	543:3 544:4	buying 550:2	695:10
459:11 479:12	513:1 521:9 522:2	564:16 565:17	555:12,13 556:19	calculation 377:2
486:12 527:8	522:4,6,22 524:13	574:5 575:9 615:1	561:8	507:13 511:9
537:19 547:20	524:15 538:3,12	615:2 617:16	by-station 702:9	514:1 515:18
592:4 670:4	538:21 539:7,13	618:16 624:3		566:22 590:10
blanket 439:6	539:15 540:6,15	650:10,11 681:3	C	593:11 599:12
559:20 560:1	548:18 558:20,21	691:20 692:22	C 489:14 512:19,20	669:7 689:1
561:7,8,14	563:1 567:19	698:6	534:11 620:19	calculations 402:3
blanks 528:8 610:1	568:3,5,6 569:18	broadcasting	621:13 638:22	414:6 454:10
blue 473:4	569:21 570:4	478:22	643:17 669:18	474:4 475:18
blur 644:20	576:14 587:20	broadcasts 371:17	695:5,13 696:7	576:20 647:3
blurred 644:19	594:20 595:2,3	496:7 532:16	CA 365:21	670:17
BMI 559:8	597:2,6,11,14	536:2,11,15 560:9	cable 364:8 368:5	calculators 377:6
board 364:1 538:4	599:13 600:1	560:22 570:14	393:7 403:22	California 434:13
538:9,22 566:6,7	609:3,4,6 625:11	609:16 619:4	407:19 421:4	call 391:14 392:20
568:8,10	645:2,14 646:10	656:11 680:20,21	422:18 427:21	433:9 534:10
board's 538:14,18	646:22 653:6	697:12,15 701:17	428:6,6,12 429:18	553:10,11 633:7
539:5	658:22 668:17	broader 689:17	429:18 430:3	633:16,17 677:5,6
body 439:20,21	675:13,21 681:9	broadly 437:6,7	439:10,14 440:16	677:8
440:1 613:14,16	682:5,15,17	brothers 486:11	444:4 447:2 448:2	called 416:16
685:22	687:17 691:14	649:21	537:6 540:22	433:13 438:7
boring 552:6 553:1	694:6 699:18,19	brother's 487:3	541:17 542:9,19	460:21 478:20,21
bother 597:18	700:4,15 701:1	Brown 480:10,12	542:19 543:1,16	504:12 588:8
bottom 525:8	Boydston's 379:16	480:16	544:7 545:14	623:10 633:16
545:16 599:15	Boydstrom 367:4,6	buckets 451:6	546:16 548:5	657:13 696:1
639:4 651:11	breach 543:12	495:1	552:2 555:12	calling 601:17
657:2	break 460:5 521:11	Buffalo 494:6	559:3 574:9	calls 574:1 647:21
bound 492:14	521:15,16 597:8	build 466:8 665:9	580:14 690:14,18	Canada 515:3
530:17	Brian 365:17	Building 364:13	690:21 701:14,16	536:13,18
bounds 409:20	368:20 493:20	builds 418:10	Cable's 574:11	Canadian 484:12
Boydston 365:17	brief 511:3 580:14	built 381:16 384:2	calculate 396:18	485:4 496:6,9
365:19 368:13,14	briefly 385:5 436:5	bunch 585:22	413:21 460:18	514:1,3,6,9,19,20
368:17,20 379:18	bring 517:2 523:19	634:22 637:2	462:21 549:9	514:22 515:14
380:8,17 381:5	594:12	bundle 555:14	565:22 566:3	516:13,15,17,19
382:22 385:1,2	brings 569:12,17	556:5 557:9	605:18 617:13	532:9,15 533:3
392:13 393:21	broad 402:15	bundling 547:10	629:17 637:6	534:12,15,19
394:5 395:8,10,13	455:20 486:2	548:13,20 549:2	677:7 678:13,14	535:3,7 536:2,6
395:21 396:7	487:7 673:2 693:9	556:21 557:20	calculated 401:9	536:11,15 604:22
397:6,10,12,13	693:18	558:4	467:20 474:14	697:11,15
398:5,9,15,19,20	broadcast 393:4	business 372:2	487:15 490:19	canceled 429:13
400:6,10,11	405:6 422:18	422:3 425:19,21	594:13 601:11	430:12
404:17 405:21	423:15,17 424:9	426:10 438:6	673:1,3,4	cancellation 430:17
411:11 413:6	429:22 449:17,20	562:8	calculates 380:15	cancellations

Neal R. Gross & Co., Inc.
202-234-4433

562:12	455:16,21 490:6	650:22 654:19	692:6	583:6 585:1
cannibalize 575:20	496:8,17 535:14	671:8	checked 500:2	592:15 595:22
capture 482:15	542:10 605:5,6	chance 581:5	checking 678:16	637:1 690:9,10,11
captures 584:1	606:13 651:4	585:12 628:7	checks 489:5	circular 457:12
capturing 661:8	cause 389:21 421:9	change 417:11,14	Chicago 607:4	circumstances
care 456:20 457:1	caused 499:12	424:2 428:8,11	Chief 364:20 368:3	567:4 703:9
457:10 472:13	causing 415:6	442:12 469:13	368:11 381:1	citation 599:14
career 438:17	422:2	470:14 475:18,19	395:19 397:3,7,11	city 596:22 597:5
careful 570:1 684:4	CBET 534:18	490:9,20 515:21	397:17 398:8,17	685:17
caret 655:6	CBS 489:15	520:17 529:13	400:4,8 404:22	cities 606:21
CAREP 371:11	CBUT 534:8	578:17 580:12	411:7 412:18,21	607:11,14
416:3 439:20	CD 364:8	588:4 660:10,11	413:3 417:2 419:6	citing 685:13
541:14	CDC 448:2,9,10	660:19 663:17	421:13,16 422:12	city 607:4 608:1,4
carried 480:18	448:20 455:10	665:15 688:12,16	423:6,10 425:3,8	CKSH 534:17
656:18 668:13	464:18 637:12	changed 403:11	431:10,14 433:3,7	claim 620:16
carry 442:14	676:12,21 691:7	404:17 421:22	433:19 440:10	claimant 416:22
575:22	cell 402:9	439:16 490:21	441:7 443:15	claimants 365:3
Carson 588:2	cells 402:19 421:8	528:15 543:19	458:19 459:4,9,18	415:17 416:5,15
Carston 588:11	612:1	changes 403:7	487:19 488:8	440:19,20 442:16
carte 547:14	census 369:22	417:20 442:14	492:4,6 493:13	444:6 445:8,9
555:12	certain 380:16	445:17 491:6	511:15 521:14	467:13,14 470:16
cartoon 494:4,6,20	408:17 439:6	changing 458:20	522:1,18 538:2	475:20,22 490:8
495:6 496:4,13	461:2 462:2 469:3	469:3,4	539:9 540:11	491:10,12 496:9
545:19 546:2	475:20,21,21	channel 432:21	557:16 568:1,4	claimed 473:21
cartoons 478:20	476:18 491:9,12	543:16,17 544:7	594:22 608:18	474:3 516:9
494:16 495:5,9	496:6 515:14	channels 421:5,5	609:2 625:7	claiming 536:16
case 382:17 386:2	517:15 547:5	428:7,12,13	646:15 653:5	claims 490:3
398:4,6 404:5,6	548:3 604:20	429:21 430:2,7	668:9 675:9,19	513:10 621:2
409:21 422:13	615:1 619:11	439:14,15,18	687:16 699:17,20	698:3
429:21 461:15	684:6 686:5	characterize	700:17 703:17,22	clarification 493:3
476:8 496:14	694:13 699:4	430:13 497:11	704:4,7	clarified 381:8
certainly 373:18	389:11 404:19	682:19 684:22	children's 494:4,5	clarify 395:1 565:1
517:11 530:5	412:1 416:8	characterized	495:21 545:17,20	616:5
533:10,16 537:19	426:11,15 472:4	683:7	545:22	clarity 632:2
541:2 552:10	492:20 494:16	charges 444:20	choice 546:17	classes 462:9
554:10 556:15	495:8 496:3,15	charged 586:1	choices 608:13	clear 369:13
567:2 568:7	503:10 507:2	chart 473:2 474:1	choose 471:10,10	380:21 389:9
581:18 619:6,21	518:19 526:9	474:13 545:9	471:12 547:4	398:9 419:13
628:16 652:14	534:5 543:5	charts 516:2	548:1 576:22	429:21 465:22
cases 383:13	544:10 575:3,7	560:10	chooses 547:12	506:16 508:6
494:21 543:15	581:6 592:11	cheap 633:22	choosing 547:8,16	5197:535 513:634:3
615:17	594:3 622:9	cheating 459:13	557:21	638:4 658:17
catching 621:7	644:21 673:22	check 447:5 454:9	chose 502:19 567:9	669:16
categories 444:5	669:22	468:12 497:14	592:15 593:7	clearer 638:6
456:19 515:10,12	cetera 469:14	570:16 558:10,10	chosen 502:12	clearly 508:20
category 440:18	505:1 647:15	570:2 571:10	530:20 569:3,6	667:18
		579:15 628:8	581:3,4,7 583:3,5	client 368:8 435:7

Neal R. Gross & Co., Inc.
202-234-4433

clients 577:1	combined 392:12	comparable 526:18	complicated	448:3 453:5
Cliff 524:14	450:14 464:14,21	comparatively	413:15 548:12,20	461:19,21 464:19
CLIFFORD 365:4	466:10 630:20	387:11	552:21 651:16	543:16
clock 521:13	631:10 635:10	compare 420:12	675:16 693:3	concerns 450:20
close 378:3 636:10	647:8,9	497:8 504:10	component 399:11	453:1,2 475:2
636:14 658:17	combining 447:22	compared 418:3	422:9	571:3
680:16	come 381:7,14	445:22 474:6	components 414:19	conclude 489:21
closed 583:21	384:5,16 396:9,13	502:15	comprise 568:10	concluded 489:22
584:13,17 585:14	400:21 402:12	comparing 538:13	589:19	615:22
closely 543:7	423:21 426:9	comparison 405:18	comprising 567:14	conclusion 378:11
code 489:14 507:7	452:1,2,3 458:1	513:2,12 515:15	compromised	378:16,20 390:1
622:9 633:9	488:10 509:1	516:6 517:3	498:16	475:5 501:3
647:13 651:18	510:2 517:8 530:3	530:19 538:14	compulsion 445:19	590:13 616:1
652:17 653:16	539:22 540:16	661:13	compulsory 444:12	687:20
673:12	578:21 610:20	comparisons	555:21 556:3	conclusions 436:15
coded 622:18	612:15 630:13	405:15 470:18	557:3 559:18,22	445:5 475:9 482:9
codes 507:18	647:4 655:20	497:17	562:1 685:21	486:7 504:6
coefficient 564:13	679:11 684:1,11	compensable 402:5	computations	516:1 518:11
564:15 641:10	690:20,22 691:5,6	405:8 408:13	648:3	530:6 602:10
644:17 656:13	comedies 456:1	444:18 450:9	computer 486:16	607:20 681:13
659:19 663:3	comes 647:7 684:3	474:2 483:1,6,8	507:6 554:5	conducted 504:9
coefficients 643:18	684:13	484:5,9,11,14	622:19 635:19	conducting 668:21
660:9 667:6,20	comfort 470:4	489:12 514:16	647:17 651:17	668:21
coffee 561:18	comfortable 503:6	515:14 532:17,21	652:10,12 655:9	confidence 492:13
cognizant 572:4	615:15 636:8	533:1,6 535:10	656:12 658:1,8	577:6,21 580:11
coincide 563:14	coming 379:10,14	590:16,18 600:13	673:11 678:18	confident 470:7
colinearity 656:3,4	384:6 411:22	600:14 604:19	679:1 680:18	confines 563:11
collected 373:15	414:21 513:11	605:4,18,22 606:1	computing 492:8	confirm 369:11
collection 437:8	514:9 578:20	606:9,13 624:2	conceded 580:16	377:13 567:21
collectivize 426:3	645:16 700:6	672:12 694:14	conceivably 622:4	confirmation
colts 373:11	comma 620:7	697:20	concentrating	407:16
College 490:5	command 652:3	compensation	480:3	confirmed 489:15
colloquy 669:4	655:3,4,7 657:8	412:13 435:4	concept 493:22	535:20
colon 655:20 656:2	comment 372:16	561:3	537:19 545:4	confuse 413:4
color-blind 473:5	commenting 408:9	competing 423:15	481:4,12	657:15
column 376:10	692:19	548:4	conceptually	confused 509:3
380:3 395:2 479:7	comments 545:5	competition 423:20	475:10 477:16	565:1 677:3
479:11 487:3	702:13	competitively	concern 442:16	confusing 571:4
491:18 518:13	commercial 591:11	432:14	concession 601:16	confusion 601:16
525:17 599:15	Committee 490:4	complete 544:18	453:19 500:10,12	Congress 364:2,13
626:2 691:21	common 465:2	completed 368:8	510:16 517:17	connected 399:6
columns 546:11	497:13	404:4	518:20 519:4,14	connection 369:1
combine 445:10	commonly 461:5,6	completely 376:7	540:2 544:3 571:3	563:16
466:14 509:6	560:19 561:2	400:3 481:10	572:6,9 573:15	consider 480:1
630:18 631:10,20	companies 435:9	538:19 19 561:16	concerned 543:22	494:4 526:1 529:1
635:9,13,21	439:7	completing 468:4	608:7	542:20 543:1
657:14	company 560:16	complex 610:8	concerning 439:15	considerable 379:1

569:2 575:3 578:2 578:10,12 607:18 614:2 critically 456:7 criticism 582:20 583:2 695:19 criticized 582:13 582:15 690:12 criticizing 692:18 critique 578:4 694:12 698:3 cross 367:2 368:16 381:3 416:8 417:6 522:2 cross-examination 493:17 703:19 cross-examined 587:5 CRT 416:4 439:20 541:13 crude 642:5,7,13 642:17 Cruz 434:13 CSO 447:1 457:19 501:19 541:5 547:22 549:14 551:5,5 552:21 554:13 557:22 558:5 685:8 CSOs 439:12 447:7 448:3 451:1,1,12 451:16 453:21 471:8,14 472:13 482:2,2,3,4,5,6,14 482:15,19,20,21 500:3,6,8 543:6 543:15,21 547:16 547:19 558:6 573:15 575:16 685:1,17 686:5 CSO's 446:18 456:12 539:22 cult 486:12 cumbersome 414:2 cup 561:17 curious 431:3 current 580:1	currently 372:1,9 374:7 434:17 custom 403:13,14 403:17 customers 456:13 cut 429:21 562:5 593:14 702:14 cuts 651:11 cycles 527:10 C-O-N-S 668:1 C.1 553:19 558:16 639:8 663:4 C.2 574:22 686:2 D D 365:17 daily 476:16 dark 587:19 darn 636:9 dash 654:17 dashed 651:10 657:6 data 367:11 369:1 369:15 371:12 373:11,12,15 375:6,19,19,22 376:1 378:9,17,18 379:10,19,20 380:4,5,6,13,20 381:22 383:15 384:4 385:13 386:4,15 387:7 389:7 390:2 391:2 394:12 396:10,14 396:1,7,17 399:1,2 399:6,11,17,21 405:9 406:1,5,8 407:17,22 408:4 409:2,12 410:21 410:22 413:13 417:9 424:8 436:13,14 437:9 437:13 442:9,10 442:11,18 443:2 448:8,20,22 448:1 448:1,1,2,2,8,9,10 448:12,15,21	449:6,7,11,13,14 449:15 450:5,8,13 451:22 452:1,2,3 452:6,7,12 454:21 455:1,10 461:22 462:6,17,21 463:1 463:3,13,15,17 464:14,16,17,18 464:21 466:10,11 466:13,14 483:3 485:20 486:18 488:12,15,20 489:5,10 509:7 510:14 511:3 517:14 521:2 528:21,22 530:12 558:18 563:3,4 566:13 570:14 571:7 572:20 573:1,2 574:6 577:4 584:8 585:7 585:11,22 587:9 587:14 591:6,15 591:18,22 592:13 593:6 600:9,13 601:12 604:14 605:14,15,16 609:19 610:11 611:15 612:4,6,13 613:9,14,16,19 616:20 617:6,15 617:20,21 618:13 618:16,22 619:3 619:12,13,19,20 620:9,10 622:2 624:13,16 625:2 625:17 626:16,18 628:7,9 630:18,19 630:22 631:4,5,6 632:4,5,5 633:7,7 633:7,13,14,16,20 635:8,10 636:1 636:16 637:2,9 637:13 647:8 650:7,8 651:5 653:16,22 674:2,7 674:20 676:5,12	676:21 681:2,12 690:8,21 694:8,15 695:1,12 696:13 database 612:16 657:21 696:7 databases 509:5 566:15 618:10 620:12 670:11 672:15 date 459:16 450:10 450:12 510:16 633:10 681:3 dates 461:7 564:9 691:20 692:3 DAVID 364:22 dawn 426:19 day 377:4,17 392:3 395:11 417:10,21 418:3 448:18 449:10 463:11 466:18 467:9 476:18 477:2 479:5 485:18 486:2 504:22 526:5,18 551:6 561:18 566:20 639:1,11,19 641:1 641:19 642:20 643:12 646:3,4 648:18 657:19 662:1 663:21 665:22 666:5,9,12 669:8 670:3 684:17,20 689:5 693:9 699:10 703:18 704:14 days 373:16 377:4 377:17 388:18 391:22 392:1,6 419:22 448:19 449:10 463:10 467:9 468:1 478:1 478:22 566:19 634:1 692:4 DC 364:14 365:7 365:11 366:14 deal 559:21 561:1	562:5 617:10 dealing 393:6,8 446:12 563:19 570:16 680:21 death 452:20 debated 569:19 debating 576:17 decade 426:2 decades 370:17 deceased 588:12 decide 388:10 576:15 583:21 604:5 decided 492:19 decile 572:7 decimal 490:20,22 492:9,16,18,21 decision 371:10 490:3 491:8 523:20,22 524:2 539:17,21,21,22 540:4,9 541:3,4 543:2 573:20 580:15 594:8,9,18 595:7,12 596:2,18 596:21 599:18 decisions 445:1 525:5 537:17 541:13,15,20 684:22 declare 443:7 decline 389:18 declined 402:18,19 543:21 declines 423:1 declining 421:10 decrease 375:4 458:7 483:22 488:3,4,5,7 543:22 544:2 595:18 decreased 428:21 598:14 661:11 decreases 519:11 decreasing 544:8 default 667:21 defer 562:22 654:4
--	--	---	---	---

Neal R. Gross & Co., Inc.
202-234-4433

define 414:8 436:18 649:12 definitely 521:15 554:18 593:22 598:3 definition 426:11 445:12 478:3 516:18 555:20 definitions 515:9 515:11 definitively 427:16 degree 379:1 389:18 423:20 424:19 429:6 434:12 556:21 560:21 degrees 422:21 delayed 424:9 DeLoitte 434:15,18 435:13,15,17,19 demand 446:20 537:11,13 demarkation 496:15 demographic 572:21 573:9 demographics 573:4 574:9 demonstrate 686:19 688:9 demonstrated 542:9 DENISE 366:21 dependent 460:22 501:5 660:11 depending 385:15 401:9 460:23 413:16 468:15 503:20 562:16 665:14 depends 495:11 634:17 636:21 derivations 696:5 696:11 derived 373:9 describe 436:5 447:17 456:3	463:13 476:2 522:15 543:9 633:9 described 466:11 488:22 509:10 510:15 528:1,10 598:5 616:17,21 619:7 630:8 636:2 638:9 642:2 647:20 648:13 651:22 675:5,17 675:18 684:15 685:16 693:4 describing 645:21 description 367:8 454:3 489:1 511:4 521:3 611:1 635:17 637:22 677:3 682:18 683:6,9 693:6 design 479:20 designated 489:13 designations 534:11 designed 388:5 448:12,21,22 588:5 desk 523:18 despite 481:1 502:14 681:1 detail 478:13 558:7 623:10 628:19,20 630:11,12 672:2,3 703:13 details 371:4,18 406:19 407:8 591:18,22 593:6 600:9,13 605:16 611:15,21 617:15 617:20,21 619:19 620:9 623:10 624:13 628:20 630:11 637:9 672:2 674:2,7 676:11,21 differ 414:5 difference 401:5 402:3 420:10	605:7,9,13 610:15 667:11 determined 436:9 502:13 determines 525:18 526:7 determining 550:21 561:7 574:19 devaluation 542:6 develop 527:18 565:10 developed 496:20 devised 522:10 devotional 365:2 415:17 416:5 456:17 devotional's 416:9 703:20 diaries 372:20,22 373:10,10,22 374:21 563:4 564:7 diary 369:1,5 370:3 370:4 371:12 373:9,11,19 374:8 385:13 394:11 396:16 424:17 442:9,11,18 448:15 461:22 462:6,17,21 463:2 464:17 570:3 573:2 581:14,19 582:4 584:8 591:6 591:18,22 593:6 600:9,13 605:16 611:15,21 617:15 617:20,21 619:19 620:9 623:10 624:13 628:20 630:11 637:9 672:2 674:2,7 676:11,21 differ 414:5 difference 401:5 402:3 420:10	428:5 431:22 492:18 502:18 529:2,22 553:14 558:12 561:14 579:20 660:20 701:20 differences 401:8 402:19 405:20 481:8,9 703:6,8 different 376:17 383:14 387:21 391:20 401:19,21 401:22 413:17 415:3,5,5 431:18 436:19 454:4 455:21 469:1 470:3 477:20 479:12 480:17 485:16 486:17 495:21 496:4,7,17 496:22 500:14,17 502:17 511:18 512:2,3 515:9,12 517:4,5,8,10,11 520:5 527:10,13 528:4 531:8,8,9 532:7 539:3 540:17 545:14 554:21 560:7,18 561:16 570:19 590:3 592:4 606:21 616:8 620:17 627:12 647:11 648:2 650:14 651:3,8 655:20 656:16 657:16 660:15,16 661:18 670:10,12 680:17 687:5 688:11 693:14 700:2 differential 479:16 differently 560:12 differ's 414:18 difficult 402:20 413:10 414:2	415:6 529:20 546:9 difficulty 387:13 549:2 637:1 digital 429:17 digitally 471:10 576:3 dimension 428:11 direct 367:2,19 369:12 372:6 373:2 375:12 380:14 414:17 433:22 472:16,22 474:14,17 475:17 487:11 499:9 503:11 533:10,13 539:11 544:19 545:5 548:14,22 619:8 647:10 685:6 695:21 698:21 700:18 directed 375:4 595:12 directive 595:18,20 596:12,18 directly 384:6 442:1 446:8 573:15 618:11 director 450:4 dirty 587:19 disagree 385:18 511:1 549:7 551:8 589:4 590:1 590:2,8 600:22 604:8 disagreement 385:12 600:7 disbelieve 385:16 disciplines 437:11 discovered 619:11 discrepancy 701:13 701:18 discrete 369:17 507:14 557:13 702:18 discuss 563:2 discussed 389:1
---	--	--	---	--

Neal R. Gross & Co., Inc.
202-234-4433

517:3 574:11 discussing 634:14 discussion 495:13 discussions 609:7 dismissed 698:4,6 dismissing 474:2 disparity 702:6 displaced 458:3,9 displacement 457:17,22 545:4 545:11 548:5 551:15 disproportionate 514:12 536:15 disproportionately 483:17 484:19 514:8 536:7 dispute 543:16 disputes 439:14 distance 449:1 distant 389:21 403:22 407:19 448:7,16 451:5 454:5,6,20 455:3 455:5,6,7,9 456:8 456:9 457:8,10 461:15,21 462:8 462:11,16,22 463:3,4,8,22 464:3,7,20 465:10 465:10,13,14,16 465:19 466:15,16 466:22 467:7 469:11,18 476:20 489:8 494:14 497:16 499:1,19 500:14 501:4,7 502:21 503:3 504:21 505:2,5 508:18 509:10,13 509:14 525:21 526:4,7,16 527:4 527:19 528:3,6 530:12 532:1 534:1 550:17 559:5 563:4,15 564:15,18 566:17	566:21 570:20,22 571:7 593:5 594:1 598:8,13,13,19 608:8 611:5,9,10 611:15,17,22 612:6,8,10 614:12 614:15 615:5,10 615:18 616:1,4,6 616:9,19,22 629:14 637:7,8,11 637:20 638:11,12 638:14 639:10,19 640:1 641:13,19 642:21 643:12 644:17 646:7,8 647:21 650:5,12 650:16,19 651:20 658:7 659:21 660:5 661:1,10 662:1,11 663:14 663:18 664:17 665:5 666:1 676:11,12,20,21 677:5,8,10 679:13 680:9 683:20 690:18,19 691:15,21 462:8 448:4,6 450:20 469:21 470:2 471:1,12 484:12 distinction 436:22 distinguish 437:1 572:21 606:8 692:20 693:8 distinguishes 692:21 distortions 436:10 436:16 distorts 555:22 distributed 393:10 distribution 364:7 368:5 371:2 411:4 428:14 429:17 559:9 distributions 560:3 district 526:22 dive 372:3 547:17	divide 679:2 divided 421:7 432:7,21 637:11 684:18 dividing 457:20 divvy 401:16 document 375:10 394:13,6,10 395:15,17 396:4,6 397:2,20 400:14 401:2 505:17 506:4,8,10,15,17 506:20 507:15 508:17,17 509:15 510:12 521:3 513:19 535:4 538:18 625:9,15,21 626:7 627:3 634:14 645:5 646:18 659:2 680:18 681:4,5 665:5 666:1 676:11,12,20,21 677:5,8,10 679:13 680:9 683:20 690:18,19 691:15,21 462:8 448:4,6 450:20 469:21 470:2 471:1,12 484:12 doing 377:2 387:13 407:12 418:17 421:20 425:18 432:10 447:18 453:16 492:17 526:12 527:2,5 530:2 567:3 583:15 584:4 612:1 615:19 618:1 640:6 649:12 652:14 653:11 654:13 655:2 660:10 677:2 693:6 door 583:21 doors 584:13,17	585:14 dot 647:14 651:12 654:15 657:8 double 378:3,4 383:18 624:20 651:13 657:9 673:12,12 doublecheck 394:13,6,10 395:15,17 396:4,6 397:2,20 400:14 401:2 505:17 506:4,8,10,15,17 506:20 507:15 508:17,17 509:15 510:12 521:3 513:19 535:4 538:18 625:9,15,21 626:7 627:3 634:14 645:5 646:18 659:2 680:18 681:4,5 665:5 666:1 676:11,12,20,21 677:5,8,10 679:13 680:9 683:20 690:18,19 691:15,21 462:8 448:4,6 450:20 469:21 470:2 471:1,12 484:12 downstream 403:20 407:1 411:17 Dr 367:5,20,22 385:7 403:13,16 404:10,11,15,16 404:19,20 405:14 406:1,4,9,12,15 406:19,20 433:9 433:12 434:2 443:22 450:19 455:15 458:14 459:22 460:4 474:20 492:7 493:19 522:7 524:16 538:17 539:5 668:9 675:4 681:10 691:17 700:14 Dragon 478:21 Dragonball 480:10 480:21 481:3 dramatically 519:11 draw 390:1 436:14 504:4,6 538:13 607:19 687:20 drawn 448:11 451:8 515:22 Dream 551:19 552:3,10 614:16 615:10 drew 418:18	564:17 635:1 652:11,21 653:1,2 673:18,21,22 drives 633:22 drop 487:16 648:15 648:19 649:14 661:19 662:5 dropped 489:17 648:16 drops 484:6 656:14 Dry 391:14,19 due 548:4 549:6 582:20 701:13 DULY 433:15 dumny 640:17 616:4 643:2 644:16 648:15,17 649:11,12 duration 449:21 479:3,5 DVD 422:14,22 DVR 424:8,10 431:2,6 DVRs 424:11 E earlier 393:15 455:15 469:6 478:7 481:21 482:8 512:1 518:8 519:6,6 520:14 526:17 554:17 556:16 574:11 598:6 602:6 603:4 616:14 629:13 630:17 636:2 638:9 643:21 648:13 651:22 684:4 685:16,16 earliest 525:22 early 431:8 498:21 earn-outs 562:14 ease 429:16 eased 571:3 easier 525:14 easily 653:14 660:1
--	---	---	--	--

Neal R. Gross & Co., Inc.
202-234-4433

eclectic 456:15 econometric 466:9 econometrician 460:1 571:2 econometricians 468:7 econometrics 436:21 437:10 440:7 461:5 economic 434:20 435:8 436:2,4 437:12,13 439:5 economics 434:10 434:12 436:20 437:4 438:14,19 440:6 552:12 636:17 economist 456:20 553:4 556:18 economists 461:13 468:7 economist's 445:11 445:16 edit 638:17 editing 584:17,19 educational 434:8 effect 569:2 effectively 413:15 424:18 471:15 640:5 efficient 656:15 effort 690:1 efforts 597:15 eight 528:9 610:1,2 610:15,16 626:22 677:17 Eighth 366:13 either 394:18 399:16 414:20 439:13,20 441:22 442:4 447:6 514:1 519:18 546:16 562:15 587:12 665:13 667:9 678:2 680:7 692:7 692:12 elasticity 663:12	electronic 505:17 507:1 619:17,20 620:12 621:19,21 621:22 622:7,10 623:2,10 627:4,16 628:13,17 629:2 629:20,20,21 631:7 632:21 634:11 670:18 671:13,18 672:15 672:17,20 673:3 674:10 679:17 696:18 697:4 electronically 622:21 element 569:12,17 eliminate 388:21 eliminated 454:15 eloquent 607:18 elucidating 538:15 emphasis 481:6 empirically 452:21 455:2
--	--

illustrate 486:6 695:20	impression 535:9 improved 573:21 585:6	incorporate 549:1 incorrect 512:10 increase 389:18	information 369:4 369:5 378:10 394:20 396:9,13	598:18,21 602:2 603:5 608:7 611:9 611:14,18 614:5 614:13 616:15 617:7,11
illustrations 687:3 imagine 384:9 422:11 550:13 606:18 633:6 674:18	inaccurate 394:16 incentives 556:22 incidence 371:11 372:19 375:4 387:14 389:10 392:20 400:22 401:13 410:1 420:10 595:13,19 596:4,6 597:22 599:6 602:12,18 604:10 616:3	increased 430:1 increases 429:5,20 430:2 554:6 IND 649:18 indefensible 487:9 Independence 364:14 independent 365:14 368:21 374:9 392:9 400:16,20 401:6 416:17 426:5 460:20 468:17 472:25,6 493:21 511:2 533:10 535:7 635:18 643:17 686:12 695:3,8	425:17 442:16,19 443:3 445:20 448:3,5,16 449:8 449:16,19,22 450:1,2 452:5,7 454:20 461:19,20 462:3,7,16 464:3 464:8,19 466:15 467:6 489:7 506:4 507:3 511:8 519:19 528:12 544:18 570:3 577:8,11,12 603:8 603:11 607:19 611:10 613:13 676:13,22 690:16 690:17 695:4 inherited 522:9 inquit 461:3 inquire 421:14 inquiry 376:9 539:3	instantaneously 631:11 instruction 552:8 instructional 457:4 550:18 552:6 553:2,16 integrity 489:5 intently 544:10 interconnection 566:14 interest 460:21 647:19 664:5 interested 552:5 560:14 670:8 intersect 638:1 interject 498:5 548:16 638:18 intermediary 630:4 international 440:2 internet 439:8 692:9 interplay 563:2 interpolation 418:18 interpolations 526:13 585:4 interpret 616:18 660:9 676:19 interpretative 660:2 interpretation 376:18 437:9 660:15 intersection 437:10 interval 492:13 577:7,21 580:11 637:9 intervals 661:6 intimated 611:4 introduce 625:4 626:4 introduction 505:8 intuitive 558:9
impacted 554:21 impactive 649:16 impacts 423:8 imperative 387:8 389:15 imperfections 436:10,16 implementation 629:3 implemented 628:12 implementation 456:2 implicitly 698:14 698:14 699:6 701:19 implied 382:12 586:5 implies 404:19 implying 379:18 importance 481:20 482:7 important 410:4 446:18 456:8 478:11 485:12 486:6 510:22 540:21 541:5 557:19 558:10 561:11 573:5,17 602:6 606:7 607:15 611:14 640:22 641:9 665:20,21 667:7,9 importantly 449:11 603:3 imprecise 477:17 imprecisely 477:5	included 386:5 405:14,17 406:2 422:20 423:4,9 424:13,15 443:3 591:7 604:19 651:3 689:5 includes 408:7 449:20 484:9 605:21 including 369:8 378:21 435:3 484:4 537:17,21 600:13,14 690:13 inclusion 694:22 697:9 698:3 inclusions 491:3 inclusive 373:4 income 574:8 inconsistency 633:12 inconsistent 372:8 386:18	incorrupt 549:1 incorrect 512:10 increase 389:18 427:4,7,10,17,20 428:9,20 429:4 529:18 661:1 663:12,13 increased 430:1 increases 429:5,20 430:2 554:6 IND 649:18 indefensible 487:9 Independence 364:14 independent 365:14 368:21 374:9 392:9 400:16,20 401:6 416:17 426:5 460:20 468:17 472:25,6 493:21 511:2 533:10 535:7 635:18 643:17 686:12 695:3,8 index 476:14 477:2 683:18 indicated 639:3 indications 672:5 indirectly 435:10 individual 387:16 388:2,11 404:1 410:6 411:14 420:18,19 421:2 421:10 505:10 567:15 702:4 individually 383:16 individuals 414:22 induce 574:14 industry 422:10 438:22 439:10 574:6,9 inferences 453:4 569:4 607:20 inferior 472:9 inferred 585:18,20 586:4,8,11 influenced 540:9	598:18,21 602:2 603:5 608:7 611:9 611:14,18 614:5 614:13 616:15 617:7,11 instantaneously 631:11 instruction 552:8 instructional 457:4 550:18 552:6 553:2,16 integrity 489:5 intently 544:10 interconnection 566:14 interest 460:21 647:19 664:5 interested 552:5 560:14 670:8 intersect 638:1 interject 498:5 548:16 638:18 intermediary 630:4 international 440:2 internet 439:8 692:9 interplay 563:2 interpolation 418:18 interpolations 526:13 585:4 interpret 616:18 660:9 676:19 interpretative 660:2 interpretation 376:18 437:9 660:15 intersection 437:10 interval 492:13 577:7,21 580:11 637:9 intervals 661:6 intimated 611:4 introduce 625:4 626:4 introduction 505:8 intuitive 558:9	646:9 invalid 686:20,22 687:19,21 involved 399:18 408:10 429:15 571:13 627:15 678:18 involvement 398:1 IPG 367:9 375:20 379:20 380:1,13 394:10 397:22 440:18,22 442:16 443:4 444:6 446:13 450:11 467:13 468:22 471:1 473:10,20 474:2,7 475:13,21 479:7 480:20 483:22 484:19 485:6 486:16 487:15 489:3 493:8 503:18 506:12,15 508:18 510:5 512:22 513:5,9,13,17 514:7,9 515:15 516:9 517:6 520:1 520:9 533:13,14 536:3,8,14 544:18 549:11 565:20 567:5,10 578:3 589:1,3,5 590:4 590:15,18,19 618:3 619:17 623:25,6 625:9 626:7 627:17 629:17 640:15 641:21 643:13 645:5 646:18 664:7 666:15 672:12 678:6 680:5 681:22 682:12 683:1,2,6 689:1,4 690:12 692:21 694:13,15 694:17,20 695:9,3 695:22 696:8,13

Neal R. Gross & Co., Inc.
202-234-4433

646:9 invalid 686:20,22 687:19,21 involved 399:18 408:10 429:15 571:13 627:15 678:18 involvement 398:1 IPG 367:9 375:20 379:20 380:1,13 394:10 397:22 440:18,22 442:16 443:4 444:6 446:13 450:11 467:13 468:22 471:1 473:10,20 474:2,7 475:13,21 479:7 480:20 483:22 484:19 485:6 486:16 487:15 489:3 493:8 503:18 506:12,15 508:18 510:5 512:22 513:5,9,13,17 514:7,9 515:15 516:9 517:6 520:1 520:9 533:13,14 536:3,8,14 544:18 549:11 565:20 567:5,10 578:3 589:1,3,5 590:4 590:15,18,19 618:3 619:17 623:25,6 625:9 626:7 627:17 629:17 640:15 641:21 643:13 645:5 646:18 664:7 666:15 672:12 678:6 680:5 681:22 682:12 683:1,2,6 689:1,4 690:12 692:21 694:13,15 694:17,20 695:9,3 695:22 696:8,13	696:17 697:3,6,20 697:22 IPG's 447:5 488:2 493:6 551:12 554:2,4 683:12 686:19 692:19 695:9 697:16 698:5 IPG-claimed 470:18 473:8 475:22 491:3 677:22 IPG-represented 442:21 445:8 467:19 irrelevant 484:15 565:9 isolate 665:16 666:18 issue 388:7,21 482:13 483:14 517:19 519:8,10 578:16 600:15,18 600:19,20 603:1 641:17 685:5 690:1 issues 545:11 572:4 575:9 595:21 item 481:15 644:6 659:10 671:10 iteratively 550:2 l.e 506:5,6	joinder 634:20 joinders 634:22 joined 427:15 journals 438:12,16 judge 364:20 368:3 368:11 381:1 382:19 383:1,18 384:8,18,21 390:3 391:10,18 394:22 395:9,12,19 397:3 397:7,11,17 398:8 398:17 400:4,8 404:22 411:7 412:18,21 413:3 414:7 417:2 419:6 421:13,16 422:12 423:6,10 424:6,6 431:10,14 433:3,7 433:19 438:18 440:10 441:7 443:15 450:17 451:15,19 452:8 452:11,22 453:13 454:14 422 455:6 455:12,14 457:14 458:12,19 459:4,9 459:12,18 469:5 478:6 480:10,12 480:16 487:19 488:8 492:4,6,7 493:13 498:4,7 499:8 501:16 502:8 511:15 512:18 521:14 522:1,18 538:2 539:9 540:11 548:16,19 549:17 549:22 551:3 553:20 555:4 556:2 557:2,12,16 558:14 562:13 568:1,4 569:16 575:11 576:5 583:7 584:10 585:13 586:4,18 586:20 587:2,15	594:22 596:21 597:4,9 598:16,20 599:4,5,13,16,22 604:15 605:9,12 605:20 606:5 608:18 609:2 625:7 638:18,21 639:7,14,17,22 641:4,14 642:5,9 642:12,19 643:10 643:16 644:5,12 645:7,12 646:15 653:5 658:20 659:1,9,14,18 661:3,12,16 662:7 662:15,21 663:1,6 663:16,20 664:3 664:13 665:11,19 666:15 667:1,10 667:14,17 668:2,6 668:8,9,11 669:5 675:9,19 681:7,10 681:16,20 682:9 687:16 691:12,15 691:19 692:1,10 692:17 693:13,20 694:4 699:17,20 700:17 703:17,22 704:4,7 judges 445:6 490:2 491:7,8,16 510:7 545:8 614:4 628:9 680:6,10,13 698:4 698:6 Judge's 669:9 July 525:22 jumped 613:6 June 364:11 justify 589:6 J-E-F-F-R 434:6	594:22 596:21 597:4,9 598:16,20 599:4,5,13,16,22 604:15 605:9,12 605:20 606:5 608:18 609:2 625:7 638:18,21 639:7,14,17,22 641:4,14 642:5,9 642:12,19 643:10 643:16 644:5,12 645:7,12 646:15 653:5 658:20 659:1,9,14,18 661:3,12,16 662:7 662:15,21 663:1,6 663:16,20 664:3 664:13 665:11,19 666:15 667:1,10 667:14,17 668:2,6 668:8,9,11 669:5 675:9,19 681:7,10 681:16,20 682:9 687:16 691:12,15 691:19 692:1,10 692:17 693:13,20 694:4 699:17,20 700:17 703:17,22 704:4,7 judges 445:6 490:2 491:7,8,16 510:7 545:8 614:4 628:9 680:6,10,13 698:4 698:6 Judge's 669:9 July 525:22 jumped 613:6 June 364:11 justify 589:6 J-E-F-F-R 434:6	K KAAA 546:18 keep 393:3 410:4 411:8 412:2,4 519:3 521:17 586:9 keeping 386:19 424:17 Kelvin 618:7 Kelvin's 663:8 kept 524:9 617:4 Kessler 448:13 449:18 453:8,18 453:20 454:12,16 455:1 462:6 464:18 469:6,8 470:5 496:21 499:3,6,7 500:3 500:10,22 501:17 501:22 502:12 503:22 504:10,2 504:13 530:20 531:20 532:2 535:11 569:11,14 570:3,6 572:5 582:2,6,9 583:3,8 584:21 585:11,15 586:10,22 588:2 601:18,20,22 602:2 604:2 605:16 618:20 621:9,14,16 672:8 690:5 695:5 696:7 Kessler's 452:13 469:10 497:8,20 498:8,12 512:2 515:5 530:14 531:9 563:14 582:21 620:19 694:7 695:13 key 399:10 414:19 502:22 505:2 568:21 kids 494:16 KIMBERLY 366:10 kind 374:3 388:14 414:16 426:9 457:20 505:16 559:12 560:2 562:6,19 586:14 604:4 626:20
---	---	---	--	--	---

Neal R. Gross & Co., Inc.
202-234-4433

642:17 643:7 665:22 673:2 knew 382:13 595:17 609:21 knock 628:4 knocked 591:1 know 369:13 374:4 379:13 381:6 382:3,4,5,14 390:7 393:1 397:11 399:16 402:13 403:1,4 404:16 406:13,20 406:22 407:3,5,9 407:10,11 413:18 416:9 423:21 425:15 426:3,21 430:14 451:10 462:15 468:12,13 470:12 489:5 498:14 506:17,20 507:10 509:7 510:18 515:11 516:16,18 517:22 521:11 527:7 529:3,9 531:14 537:16 547:19 548:10 549:13 551:18 553:5 554:1,6 561:11,12 561:13 562:18 563:6,8 565:7,16 572:9 575:8,15 577:3,13 578:20 579:19 582:8,20 582:21 583:20,22 584:2,22 585:2,20 586:1,14,16 587:7 587:12 589:9,18 592:10,14 593:18 594:25,5,8 598:4 600:3 602:1 603:3 603:15 604:5,8 605:2,8,16,20 606:1,13,19 608:10 610:2,4,9 610:11 613:1,7	620:1 623:1,4,9 623:14,15 624:1 629:4 630:7 635:4 640:8,12 642:21 642:22 643:5 654:3,12 655:5,7 660:21 665:3,5,7 666:11,12 668:15 669:1,12 670:21 671:20 672:14,20 673:2 681:21 686:9,10 690:20 691:9,11 692:1,2 692:3,8,19 694:17 695:16 698:10,18 700:5 701:9 knowledge 381:13 411:15 412:7 443:8 506:14 627:11,14 knows 425:14 439:5 KNOWS 404:20 KPIX 615:5 KRON 480:17 L la 547:14 555:12 label 646:9 labor 438:14 labor-saving 622:20 lack 499:12 501:11 659:4 landscape 426:7 427:11 large 436:1,14 439:2 451:14 453:8 454:7 463:1 552:17 561:9 653:14 larger 373:18 390:6 453:21 482:4 499:7 500:12 525:13	580:10,10 largest 392:19 534:22 lasted 459:11 late 657:19 Laughter 397:9 413:5 416:10 459:14 480:15 621:5 668:12,16 701:10 Laura 385:7 600:5 law 435:11 lay 425:13 659:3 layout 625:3 lead 402:18 537:12 537:13 leader 434:20 leadership 435:6 leading 501:2 leads 429:20 475:13 487:8 663:13 685:9 learned 490:11 leaving 641:17 LeConte 365:20 led 447:6 left 400:13 435:16 525:14 544:15 607:11 648:5 left-handed 606:20 606:22 607:2,5,13 608:2 612:5 626:1 left-handedness 607:9 legal 411:9 594:19 legend 624:16 625:2 639:4 length 476:12 477:7 486:21 642:13 684:2 lessor 458:6 574:10 Let 668:13 letter 484:2,22 letting 700:7 let's 411:8 417:12 423:13 432:3 458:14 460:14	555:1 558:12 563:2 610:13 614:11 662:12 665:4,8 670:2 level 372:16,18 388:6 393:9 408:3 418:11 432:12,16 517:15 558:7 702:21,22 levels 373:1,6 386:19 387:2 393:6,12 409:16 418:17,20 420:21 435:5 461:3 477:20 570:20 library 364:2,13 439:8 561:10,11 565:5 668:5 list 449:5 450:9 497:8,8 502:12 512:2 530:14 531:8 534:21 550:4,7 563:13,15 590:4 619:16,18 623:13,15 624:2 634:10 670:10 671:16 672:1,16 672:17,20 674:3,7 674:20 676:5 679:10 691:20 696:6 listed 631:1 672:15 listen 460:2 listened 607:16 listening 574:21 listing 377:22 533:14 listings 672:12 lists 450:9 508:1 litigation 622:15 little 376:20 401:19 455:17 458:3 459:19 465:2,4 469:16 501:11 507:9 527:8 537:18 547:20 548:12 564:22 592:4 606:14 602:21 623:20 638:6 644:14 647:17 655:6 668:4 670:4,6 673:5 698:15 live 425:1
--	---	---	---

Neal R. Gross & Co., Inc.
202-234-4433

LLP 365:10,19 366:11 434:16 local 383:12 405:19 449:9 454:5,6,21 463:22 464:8,16 465:9,13 466:20 466:16 469:18 494:14 497:15 499:2,21 500:13 501:4 503:2 504:21 525:19 526:4,17 520,527:2 527:17 528:3 530:9 531:22 562:3 563:3,15,21 563:22 564:1,14 564:18 570:22 585:17,22 604:22 614:20 619:20 620:10 628:20 630:12 631:4,5 632:4,4 638:11,14 639:8,15 640:1,4 64
--

494:15 501:7	505:10	458:17 460:8,11	653:19,21 679:20	mode 408:18
506:21 512:12	measures 421:18	538:9	680:8,8,14,15	model 466:9 546:4
532:18 533:5	467:17 471:13,14	methodologies	mind 377:12	546:4 572:1
536:11 569:16	476:9 480:6	523:2,7,10	386:20 393:3	611:16 617:8,10
586:6,6,7,20	measuring 374:10	methodology 411:4	401:17 410:5	647:5
591:17 610:6,16	422:7 477:18	411:5 412:13	519:3 668:10	modest 485:3
616:18 617:9	478:10 663:17	440:16,22 475:2,7	690:3 700:7	modifications
621:19 629:4	media 423:14	475:17 476:4,5	mind-numbing	488:19
634:17 649:8	438:22 449:14,14	477:15 478:2	667:5	moment 394:7
652:11 657:10	674:3,7,20 676:5	479:21 480:21	mine 384:17 502:6	463:13 476:22
662:3 664:1 693:6	694:16 695:1	481:5 482:22	526:13 578:19	575:13 592:19
695:7 696:21	meetings 435:6	484:2 489:20,21	615:14	597:12 624:5
703:1	memory 623:16	503:14,18 508:3	minute 381:7 389:5	627:14 689:3
meaning 386:10	652:12 673:16	510:2 511:10	432:6 620:16	momentarily
420:22	mention 548:21	520:3,6 522:8,21	637:9 684:5	453:16
meaningful 398:1	mentioned 369:12	523:12,13,14	minutes 380:10	moments 521:4
means 378:6	372:11,12 389:4	527:14,22,22	381:14 459:5	Monday 420:6,6
409:14 495:12	393:14 450:19,22	528:5 536:21	471:5 474:5 477:8	money 587:13
507:21 508:9	452:12 464:15	565:17 588:19	477:10 521:10	monkeys 633:19
531:9 566:9 571:9	466:20 467:1	589:8 611:2	525:1 608:20	monkeys 626:1
588:17 660:3,18	559:15 595:11	682:19 683:6	704:3	months 379:5,6,12
660:18 667:6	mentioning 549:1	691:10 692:19,21	mischaracterizat...	383:5 384:11
673:13	mentions 482:17	695:1 702:16	594:18,21	442:8,10 448:17
meant 420:16	merge 510:15	methodology's	448:18 449:11	463:11 467:9
456:11 493:2	632:20 633:9,13	493:6	461:18 462:2	528:6,7,9,13,14
514:20 584:12	635:21 653:16	methods 437:12	528:17,20 529:2	529:13,13,19
669:19	676:6	metric 430:10	529:13,13,19	530:3 564:8
measurable 446:8	merged 442:19	475:14	609:19,21 610:2,4	610:12,16,18
447:12	631:5 632:4 671:6	metrics 703:11	611:6,6,11 612:14	613:10 638:5
measure 389:2	674:2,6,19 676:4	metropolitan 439:2	689:10	mop 585:10
446:3,8 447:13	676:7	Mexican 532:12,15	546:1 582:7	morning 368:18,19
457:11 471:16,21	merges 632:16	604:22	546:1 582:7	417:18 418:12
472:8 476:7	merging 632:12	micro 388:6,8	689:10	419:10 434:2
477:12,13 487:10	637:2	microeconomics	525:9,17 550:18	458:22 493:19
537:11 558:13	merit 661:17 662:9	438:13	599:15	588:19 589:8
637:7 648:18	662:9	middle 469:14	618:14	590:7,15,17
682:19 683:7,22	met 562:12	525:9,17 550:18	mistaken 501:20	591:15 594:10
697:21	meter 371:22	599:15	618:14	595:12,18 596:3
measured 369:22	373:15 389:1	midnight 643:5	mistakes 487:14	602:1,8,11,15,17
373:3,14 376:16	644:11 648:11,16	648:20 659:12	689:12	602:13,14 620:16
414:12 458:10	674:20 676:4	million 386:22	Mitchell 366:11	624:3 629:17
477:5 542:13	metered 372:12,20	387:19 432:3,5,7	mitigate 499:11	634:11 672:13,17
617:14 685:4	373:12 374:5	432:7 465:8 467:4	mix 447:6 456:18	678:5 681:3,21
688:5,10	meters 372:22	474:5 506:18	554:2,4	682:11,12,18
measurement	374:1,17,22 563:3	508:17	mixed 616:14	683:1 689:17
372:10 378:22	method 409:14	millions 652:13,13	mixes 554:21	
421:22 458:8	methodological		mixing 689:3	

Neal R. Gross & Co., Inc.
202-234-4433

646:11 670:4	694:15,19 695:10	585:21 664:10	508:6,12 511:11	600:12 601:12,15
moved 394:8	695:12 696:8,16	necessary 387:11	535:20 562:18	602:14 603:8,11
movie 450:3,4	696:16 697:2,8,22	405:15 410:15	594:13 626:2	603:17 604:11,18
movies 446:14	MPAA's 411:4,4	508:20 580:10	652:10,21 653:13	605:3 606:18
457:6	506:5,6 544:19	need 387:4 398:13	696:19 701:9	607:16 609:19
MPAA 367:17	577:17 589:19	398:18 399:5	nice 548:1,8 544:4	610:11 611:15,21
369:1 370:20	627:16 697:16	414:6 425:14	576:7,8,10 625:5	612:13 613:19
375:4,14 385:20	MPAA-claimed	515:16 577:20	633:14 657:12	614:6,14 615:12
386:5 395:20	470:19 677:22	583:15 618:6	newspapers 439:3	616:20 617:15,19
397:22 398:12	MPAA-represen...	675:9 677:20	next-to-final	617:21 618:13
403:12 406:8	375:12 467:13,18	679:3 703:12,14	678:12	619:13,19,20
409:22 410:18	473:6 483:17	needed 454:19	NGUYEN 366:10	620:9,10 624:13
411:6,13 412:7,12	486:11 671:17,19	585:6 627:20	nice 596:15 646:8	624:16,20 625:2
416:12,18,20	multiple 411:21,21	needs 519:17	647:16	625:13,13 626:16
419:11 434:3	590:5 594:6	594:11	niche 574:13	627:1 631:4 632:3
440:19 441:10,10	598:12 599:10,10	negative 643:6	Nielsen 367:11,12	647:21 674:2,7,19
442:19,21 443:1,3	multiplied 377:3,4	661:21	367:13 368:22	619:13,19,20
443:4,7,11 444:6	377:5	negotiate 560:12	371:12 373:11	620:9,10 624:13
445:7 446:13,15	multiply 377:9	negotiating 543:7	375:6,19 376:1	624:16,20 625:2
448:13 450:9	477:1 683:19	544:7 685:20	379:20 380:2,6,15	625:13,13 626:16
471:1 473:10,18	music 439:7 551:22	negotiation 562:19	381:21 382:2	627:1 631:4 632:3
473:2,8,18,22	560:20	negotiations	385:13 386:5,15	647:21 674:2,7,19
484:6 490:19	N	439:13 543:13	389:6 390:7	619:13,19,20
491:20 506:12	N 365:6 366:12	544:5 557:13	394:11 396:10,14	624:18
508:3,19 510:1,6	489:14	562:11,21	396:15,16,18	Niel00 624:8,17
513:5,9,12,13,14	name 368:20	Negro 490:5	397:1 399:1,21	night 490:12
513:16 514:10	399:17 405:10	neighborhood	400:21 403:13,20	550:18
516:9,10 518:21	434:2,4 493:19	386:21 418:14	406:1,6 409:2,3,6	nine 638:5 679:12
522:7 523:2,6,10	588:2 629:1	neither 445:18	409:12,14 410:21	no 453:13
536:21 549:12	names 399:7	564:19 592:20	410:22 411:6	noise 458:4
565:20 567:5	402:10 404:3	net 415:2 540:2	416:19 421:17	nomenclature
576:16 577:14	narrative 411:10	541:4,10	425:15,18 427:15	589:15 651:7
578:21 579:1,22	539:10 675:10	422:8	429:11 431:3,4,5	non 481:22 482:7
580:1,15 582:12	national 372:16,18	Netlix 421:18	442:9,10,18	484:10 496:1
582:15 583:14	405:18 417:12	network 400:17	448:14,15 449:5,7	501:17 514:15
587:6,10 588:1	426:4 434:20	401:7,13,22 402:7	452:2,7 461:22	583:8 585:16
588:19 589:8	402:17 405:7	402:17 405:7	462:17,20 517:14	591:10,17,21
590:7,15,17	406:3 408:7,13	nationally 374:8	518:2,13 519:19	600:13 605:22
591:15 594:10	418:17 449:7	429:12 430:11,16	525:18 526:1,5,20	697:19
595:12,18 596:3	naturally 489:5	489:9,11,16	541:14,16 542:6	noncompensable
601:2,8,11,15,17	nature 538:15	549:19 604:22	542:12 572:20	405:12 406:2,5
602:13,14 620:16	NBC 489:15	615:11 649:21	573:2,21 581:14	408:1,6
624:3 629:17	near 391:8	networks 393:10	581:19 582:4	non-Canadian
634:11 672:13,17	necessarily 402:21	426:4,9 429:11	585:21 586:1	516:17
678:5 681:3,21	423:15 506:22	network-affiliated	591:6,18,22	non-compensable
682:11,12,18	568:19 574:4	401:12,20	592:22 593:6	514:12,18,19,21
683:1 689:17	582:19 584:22	never 397:20 496:1	596:3 598:1 600:9	515:2 536:7,10

Neal R. Gross & Co., Inc.
202-234-4433

604:20 605:6	378:1,12 392:11	679:1,3,9,10	October 369:8	522:13,17 523:1,5
606:10 619:5	414:12 415:8	718:22 379:12	378:22 379:12	523:17 524:22
671:11	417:16 420:22	698:9,59	381:11 525:20	525:7 527:15
non-compensables	426:9 427:2 428:6	526:6,19	526:6,19	530:8 531:7,21
604:21	428:21 429:22	numerals 525:11	oddball 469:17	533:2,18 534:7
non-inclusion	430:7,22 432:4	numeric 409:6	offense 668:15	536:1 539:13,20
697:10	448:7 449:1,12,13	numerous 483:10	offer 440:5 574:12	541:12 544:1,12
non-log 660:17	450:6 451:5,10,11		offering 547:13	545:9 546:13
non-random 470:5	464:19 465:14		offhand 384:20	549:15 563:10,18
481:19 484:4	466:16 469:11,18	O	399:22 429:7	564:5 572:17
499:3,18,20	470:22 471:2,4	object 379:16	642:22	579:12 584:5
586:10	473:3,6,13 476:20	689:20	Office 691:2	590:10,20 593:3
non-randomly	477:3 481:16	objection 396:1	offentimes 381:10	595:11,17 596:20
499:21 581:2	497:4 501:7	397:4 404:13	oh 421:15 461:6	604:1 609:18
583:6 690:11	504:21 514:8,12	411:2,9,10 412:16	473:13 524:14	614:11,18 618:12
non-randomness	528:11 536:15	440:8,9 443:13,14	525:15 544:22	619:2,13 620:1,8
569:17	578:1,5,11,15,22	511:13 537:12	550:4 557:16	602:14 621:11
non-recorded	579:1 580:2	538:10 539:12	559:5 563:22	622:3 624:4 625:4
594:4 603:21	581:13,14 582:16	540:3 567:17	584:18 587:18	627:15,22 632:11
non-scientific	584:3 590:2	594:17 646:13,14	598:18 604:8	633:16 634:3,6
501:12	592:11 593:1,8	653:3 675:2,12	605:14 631:9	635:16 653:9
non-sweeps 461:17	594:2,14 599:19	687:14	634:21 657:11,18	655:13 656:19
528:13 611:6	602:21 608:13	objections 411:8	662:2 664:12	658:11,19 659:18
non-zero 513:20	610:10 613:21	observation 519:9	666:3 696:21	661:12 669:4
586:2	621:4,9 622:3	519:12 694:12	698:20 700:12	670:2 672:22
noon 459:19	629:22,22 630:6,7	observations 465:9	701:12	674:19 676:17
normalize 633:11	632:6,7 637:7,11	467:4,5 506:18	okay 368:11 375:2	677:4,16,20
normalized 648:10	638:12 641:3,19	652:14 679:21	376:8 381:19	678:11 680:3
normally 413:7	642:21 644:1	688:5,6	382:18 394:21	681:12 683:3,11
North 585:9	654:8 663:2 679:3	obtained 631:4	398:19 399:8,19	686:12 694:4,20
Northwest 365:6	679:4,5,12 684:6	632:3 694:15,18	401:18 418:16	695:18 696:4,15
365:10 366:12	689:14,16 698:16	obvious 369:14	420:4 423:6 426:1	698:11 699:20
nos 593:13	701:14 702:7	obviously 372:5	426:14 453:15	700:17 701:7
notation 405:4	748:2 513:19	478:2 513:19	456:20 460:14	702:14 704:7
note 397:18 431:5	378:2 380:10	533:12,20 559:11	461:4 463:12	Olanihan 366:7
608:19 655:20	383:19 389:9	616:9 673:3	465:21 466:5	368:7,10 379:15
656:2 690:15	414:3 417:13	occur 410:10	470:8,17 471:19	380:12,19 381:4
notice 364:16	423:3,17 429:7	421:11 424:19	473:1 474:20	396:1,12 398:13
noticeable 427:19	482:18 496:22	696:19,21,21	475:5 476:2	404:13 411:2
noticed 483:3	505:22 507:8,9,10	703:1	477:14 481:11	412:16 419:7,9,11
489:8 594:1	509:20 535:21	occurred 386:11	491:14 492:6	425:12 423:11
695:11	571:13 572:13,15	424:15 428:18	493:12 498:22	425:12 433:8,9,17
November 692:11	602:18 603:17,22	429:8 526:4 628:5	502:7,8 503:22	433:21 434:1,3
nowadays 429:14	604:2,6,11 648:4	occurrences 384:1	506:3 511:3	440:4,12 441:5,8
nuances 580:8	648:5 652:18	occurring 381:18	512:16 514:5	

474:9,19,19 479:15 482:19 484:1,1 485:7 487:16,17 488:3,5 488:6,7 491:21,22 491:22 492:1,13 566:4 568:11,12 579:21 584:2 591:8 595:9 598:15,17 599:9 599:11 600:10,11 601:3,3,8,9 602:15,16,17 603:13,14 604:17 605:3,21 607:8,22 608:3 609:10,12 609:14,15,21 610:4,5,13,18,21 612:14,19 613:11 613:15,15,19,21 614:20 615:20,20 615:21 616:4 660:22 663:12,13 678:9 688:15,18 percentages 393:17 395:3,5 428:2 432:1,9,15,17,18 476:15,16 482:20 482:21 485:18 506:11 513:16 566:3 577:18 603:20 617:14 659:22 660:19 661:11 678:5,6 684:19 697:17 percentages 393:7 487:20 506:1 508:22 509:2 678:14 perfect 682:15 perfectly 580:17 perform 439:7 447:14 497:14 628:4 669:7 performance 439:4 559:14 performed 381:19	629:7 675:6 performing 463:15 489:4 period 374:7,21 385:12 390:20 420:13 422:13 424:1 428:3 429:8 429:19 432:19 476:10,13 485:11 485:12,17 486:1 486:19,22 487:8 487:12 493:6 506:21 520:3 525:22 526:2,3 564:10 578:6,9,16 580:1 609:20 613:18 637:21 659:16 665:3,4 683:16,17 684:10 684:12,14,17,19 686:19 688:22 689:6 693:7,22 periods 376:16 377:1 378:1,22 379:9 381:7 411:22 461:17 464:5 520:5 528:12 641:8 661:18 permanent 477:10 478:4 633:3 permutations 469:8 512:2 person 406:21 637:1 personal 443:8 627:10,13 personally 382:1 382:11 486:9 perspective 445:12 445:16 446:18 455:12,14 537:6 551:4 665:2 685:20 perturb 556:21 perturbing 470:6 perused 625:18	Phase 364:9 368:6 446:4,6 456:14 496:17 515:9 535:14 537:20 539:16 541:3 542:3,4,5 554:3 557:15,20 558:9 580:18 phrase 373:17 404:11 Ph.D 434:10 441:17,19 636:17 pick 365:19 409:15 547:14 picked 568:17 580:6 Picture 366:4 433:14 pictures 455:22 piece 402:16,16 404:6 405:3 421:8 Pillsbury 365:6 Pittman 365:6 place 370:20 407:6 414:5 430:19 466:18 476:17 485:19 652:4 684:16 places 435:21 492:9 plan 454:2 planned 459:12 platform 630:14 play 430:6 561:9 579:3 playback 424:14 player 424:13 pleas 574:21 please 384:22 411:9 434:4 435:19 441:11 455:13 459:9 472:18 476:2 549:7 571:6 575:1 597:1 615:7 645:13 676:3 683:4	PLOVNICK 366:8 599:17 plus 374:11 379:7 388:2 Poi 651:13 657:9 657:13 658:17 point 369:14 393:5 393:13 398:18 404:3 409:8 414:1 418:9 422:4,4,15 423:12 424:11 427:9 430:1,9,21 431:22 440:5 478:15 487:7 490:21,22 492:16 492:19,21 503:7 517:17 519:2 524:20 536:14 539:18 547:3 551:16 556:22 574:1,2 575:7,14 579:19 580:7 581:22 593:10 627:9 630:3 635:2 635:5 656:19 660:20 672:22 688:9 702:10 703:7 pointed 478:6 519:21 520:1,13 688:22 pointing 601:18,20 points 414:14 492:19 558:22 630:10 659:22 point's 531:15 402:7 477:3 Poisson 594:6 608:15 645:20 647:15,17 654:16 654:17 655:10,10 660:2,3 673:14 677:12 Pokemon 478:20 479:15 polluted 498:15 500:20 pools 411:14	popular 494:17 537:7 550:5 561:13 popularity 458:6 477:21 480:6 481:9 560:4,21 561:4,6 population 369:16 369:18 370:1 386:20 451:9 482:1 570:16 574:15 578:3 579:8 580:9 683:19 portion 606:8,9 portions 524:8 portrayed 652:2 position 397:19 434:17 435:1 547:22 551:12 653:13 positive 407:15 465:18 612:7 643:6 661:21 possibility 669:6 possible 383:14 548:9 650:5,18 possibly 370:12 654:5 696:19 post 562:17 post-deceased 588:15 potential 682:20 683:7,14,15,21 potentially 383:21 402:7 477:3 496:14 499:20 power 665:1 powerful 462:13 463:6 practically 521:12 pre 588:15 precise 576:21 577:3 precisely 574:7 650:5,18 662:11 precision 673:13
---	---	---	--	--

Neal R. Gross & Co., Inc.
202-234-4433

predecessor 416:4 predict 461:1,12,13 462:11 463:3 464:6 489:8 502:21 509:10,13 527:18 554:11,13 574:7 592:2 608:1 608:3 611:5,8,17 612:6,7 651:12 657:8 665:5 673:12 predictable 652:20 predicted 467:4,7 510:21 598:12 629:14 654:8 657:22 658:7,13 679:13 predicting 478:9 651:19 prediction 477:6 500:21 501:2 505:4 571:11 673:17 predictions 463:8 571:20 677:13 predictor 537:3 553:12 574:10 predicts 528:13 555:2 preferable 529:6 529:14 preferences 471:9 preliminary 599:19 premarked 441:10 premise 590:9 probably 370:13 387:20 389:20 400:16 408:9 420:9 424:3,22 494:21 495:5 496:10 524:20 556:17 607:17 621:20 636:19 637:1 638:17 668:10 674:21 675:5 676:15,16 692:2 699:2 700:7	President's 436:3 press 653:16 Presumably 473:15 presume 505:18 532:12 621:21 622:4 623:8 634:12 655:14 presumed 587:12 pretty 380:16 427:13 675:14 prevalent 697:15 previous 372:16 previously 439:19 443:18 595:5 646:18 price 445:16 prices 436:8,11 primary 435:7 Prince 483:5,8 696:2,2,12,12 principal 434:19 principles 555:6 printed 644:18 printout 375:18 626:10,14 627:4 prior 416:5 420:11 420:12 427:15 435:12,14,18 445:1,2,3 518:10 523:1 537:20 541:19 577:8,10 577:13,14 578:21 578:21 594:8 603:14 654:22 PRO 439:5 probably 370:13 387:20 389:20 400:16 408:9 420:9 424:3,22 494:21 495:5 496:10 524:20 556:17 607:17 621:20 636:19 637:1 638:17 668:10 674:21 675:5 676:15,16 692:2 699:2 700:7	704:2 problem 499:11 517:8 556:4 557:7 582:18 585:17 591:20 592:7 597:19 636:1 662:10 674:6 problems 452:16 583:12 589:5 procedurally 463:14 proceed 384:22 433:17 455:13 proceeding 369:2 380:1 410:20 411:5 440:14 443:4 444:2 446:5 448:16 536:17 537:21 542:3 600:16 602:15,16 602:20 603:2,14 604:20 668:20 681:22 688:20 704:12 process 405:11 463:17 466:7 509:8 523:3 552:21 629:20 631:22 634:13 635:19 637:16 647:3 651:16 652:4 653:11 670:13,17 671:10 678:17,17,22 691:6 produce 414:4	631:7 644:21 680:18 produced 380:13 403:21 407:22 408:19 411:6 414:13 506:15,21 591:7 619:17 630:5 634:1,1,16 673:22 674:18 676:9 680:1,4,5 680:10,12,14 Producers 365:14 368:21 493:21 533:11 produces 552:18 producing 384:5 391:2 404:8 405:8 423:3 product 377:5 391:4 476:9 548:7 552:13 629:9,11 652:6,19 production 437:5 627:16 628:5 671:20 products 446:21 professor 438:2 program 370:3 375:12 390:20 391:5 399:7,17 402:10 404:3 405:10 408:3,4 410:20 411:14 412:14 413:16 415:3 429:12 430:11,16 440:17 442:19 443:3 444:5 446:7 447:11,15 451:22 452:4,6 454:10 456:5,6,9,16,18 457:4 458:1,2,5,9 463:9 466:17 467:8,17,21 471:17 476:12 477:7,8 478:6 479:22 480:2,3,6	483:2 490:5 494:3 495:15 496:8,11 496:16 505:11,14 506:8 507:6,14 509:14,16,17 510:9,10 511:9 513:10,11,14 515:16,18 516:7,9 516:19 533:6 535:14 537:7,10 542:10 543:7 549:11,13,20 554:15 557:5 558:13 563:19 564:2,7 565:2,6 565:12 568:20 598:9,21,22 599:2 599:3 617:22,22 629:16 633:8 635:12,19 639:2 646:5 650:9,14,21 651:3,4 654:12 656:8,10 657:4 667:8 684:2 685:8 685:18 687:3 690:19 694:14 696:1 698:6 programming 383:14 388:18 402:5 406:3,3,5 408:1,6,7,13 420:15 424:9 427:22 428:15 432:6 439:15,16 446:13,14 447:6 449:16 450:10 456:16,17 457:3,5 461:20,21 462:2,7 465:7 467:17 471:2 473:8,19 474:2,3,10 481:8 482:11,15 483:6,9 483:18 484:9,10 484:20 491:4 494:9,10,11 506:19 532:16 536:7 543:17,19
--	---	--	--	--

Neal R. Gross & Co., Inc.
202-234-4433

543:20 545:17,20 545:22 547:4,5,6 547:18 548:1,12 549:10 550:22 565:4,8,20 567:14 590:4,18 600:14 600:15 603:1 604:19 605:18 606:9,10,13 614:22 619:5,11 624:3 671:11 678:1 697:20,22 698:1 programmings 412:9 462:15 programs 388:17 389:16 391:9 393:16,18 394:13 395:3,5 402:17 409:22 411:18,18 417:17 439:18 442:20,21 443:2 444:18 451:13 455:16,21 462:15 470:18,19 471:4 473:3,6,7,11,13 473:15 474:9,18 477:19 483:4 484:5,11 485:1 486:20 489:10,12 489:17 490:5 494:15 495:20 496:10,11 508:1 508:18,19 510:4,5 510:6 513:5 514:1 514:3,6,7,9,10,13 515:14 516:17,13 516:15,17 517:8,8 533:7 536:6,8,16 546:20 547:10,14 548:3,8 550:13 554:14 555:13 563:12 567:15 568:11,13,15,16 568:17 576:4 588:18 589:7 590:3 598:11	608:14 612:1,2,8 617:14 620:22 650:15 651:8 656:17 685:5 696:8 697:16 program-by 598:8 progressively 471:16 project 581:5 projected 507:6 580:17 581:2 projection 565:11 647:22 660:20 projections 454:13 500:19 503:8 505:3,21 565:3,15 566:16 569:4 651:22 652:16 657:16 pronounce 483:13 496:1 proportionate 449:1 proposal 490:9 642:3 propose 440:15 proposed 397:21 398:3 440:22 467:12 475:2,19 491:1,20 proposition 590:2 685:14 PRO's 559:15 560:14,17 provide 413:8 435:19 437:13 471:13,16,20 472:7,12 508:14 508:16 511:6,7 596:5 635:10,12 671:8 682:12 696:17 697:3 provided 368:22 375:19 379:20 386:5 396:16 398:2,10,12 403:6 406:1,8 407:18	413:12 443:2 448:13,14 449:3,4 449:6,9 450:8,11 510:12 511:12 618:9 619:4,9 621:18 623:2,4,21 628:13,19 635:14 637:10 provides 378:19 446:7 447:11 492:13 providing 378:18 435:8 proxy 551:8,9 553:10 PRO's 439:8 public 457:18 publications 438:20 published 438:8,11 pulled 682:22 purchase 548:1 purchasing 471:15 544:4 purporting 533:22 purports 534:3 purse 380:1 388:16 396:10 444:1 660:2 670:15 686:18 687:1 purposeful 452:15 purposes 388:4 409:5 442:11 528:21 538:15 573:4 580:18 670:1 pursuant 364:16 511:10 698:7 push 586:16,19 587:8 pushed 586:18 pushing 586:15 put 383:17 396:21 458:3 484:5 487:12 506:9,11 507:14 524:3	574:22 630:12 640:13 657:10 701:2 puts 481:5 putting 409:6 P-O-I 673:13,14 P-O-I-S-O 654:15 P-O-I-S-S-O-N 654:17 P-R-O-C-E-E-D-... 368:1 p.m 486:13 521:20 608:22 609:1 659:15 704:11 O qualifications 636:15 qualified 404:14 440:11 qualify 605:1 682:7 quality 458:6 650:14 quantities 436:9,12 quarrel 572:12,18 quarter 372:4 purse 380:1 377:16 378:1,12 379:2,9 381:7 383:17 387:3,5,9 387:16 388:3,11 390:5,7,10 391:16 402:4 403:21,22 405:16 410:6 412:3,5 417:11,11 418:19 419:16,22 449:9 463:9 528:2 570:13 641:10 648:11,12 651:19 659:10,22 quarters 648:11 quarter-hour 376:22 464:22 465:8 466:17 467:8 504:22 505:13 506:18,19	510:16 519:15 528:1 532:5,6 599:2 609:16,17 612:1,9 614:19 629:15 633:10,11 639:2 640:17 641:1 643:8 644:9 644:11 652:15 659:11 661:2 662:14 673:17 677:13 679:14 680:9 quarter-hours 663:9 quartile 469:10,13 469:14 500:5,22 501:1 570:5,6,11 quartiles 470:4 502:17 512:4 569:14 571:10,20 572:17 512:4 quasiness 454:15 454:18 queasy 454:8 498:20 quelled 454:19 question 369:20 374:12 380:14 382:21 390:4 394:18 401:18 403:3 405:1 413:10 415:22 424:7,16 425:7,14 428:20 429:1 430:6 431:2,8,13 432:20 437:3 446:15 451:21 452:9 456:4 457:13,15 492:11 493:2 494:1 495:3 496:5 498:20 507:22 529:17 531:13,15 537:1 540:14 548:10,17 553:8,15 554:1 568:5 570:18 571:9 585:19 583:7 584:9 588:4
---	---	---	--	--

Neal R. Gross & Co., Inc.
202-234-4433

592:3,7,8 596:11 596:16 597:20 601:5 604:6,16 608:5 613:3 616:11 625:1,12 626:21 637:17 638:19 640:16 642:1,10 643:9 645:10,13 658:21 663:20 664:18 666:20 669:10 673:19 680:17 681:8 690:7 691:13 695:7,15 696:22 699:19 702:18 questioning 379:17 380:20 questions 381:3 382:9 395:1 396:4 417:5 419:12 424:4 425:4,4 426:14,15 453:21 492:3 495:14 497:19 545:3,8 574:18 579:3 609:9 670:12 671:5 675:3 703:15 quick 419:12 451:21 613:6 quickly 377:11,12 quite 369:13 370:16 397:1 418:9 445:21 446:15 451:7 456:10 469:2,16 471:17 479:12 510:17 531:12 557:15 560:7 561:15 583:20 593:14 635:2 695:6 696:20,22 quotation 574:17 quote 392:16 442:8 458:4 542:3 574:21,21 580:14	581:1,4 603:4 631:3 682:21 700:2 701:11 R raise 425:4 572:9 574:18 RAM 652:9,11,22 679:21,22 ran 469:1 501:12 511:18 512:3,6 570:1 594:5 673:11 random 448:21 450:19 451:1 452:15,18 453:3,4 453:10,18 462:5 464:17 474:6 481:20 482:1,8 498:9,10,13 499:17,22 500:19 501:18 502:14,22 503:9 505:4,5,12 515:19 531:20 564:3 565:3,4,13 565:22 569:1,11 583:9,16 590:17 598:11 602:7 652:11 690:4 randomly 467:16 468:2 567:9 569:3 569:6 581:4,7 583:3,5,11 585:1 606:21 607:2 616:2 636:22 690:9,10 randomness 498:16,17 499:12 500:11 569:12 585:17 range 370:13 385:19 455:20 518:20 601:1,6 ranged 600:10 609:20 ranges 474:18 rank 533:22	ranking 702:1 rankings 542:20 701:22 rapidly 428:16 rate 518:4 594:19 663:17 687:22 688:14,17 rated 391:15 rates 413:8 517:16 581:21 573:5 618:13 rating 393:6,9 414:13 431:20,22 432:18 433:1 455:9 545:19,21 546:2,5,7,22 547:1,4,6,8 562:7 637:20 676:11,20 677:5,8 ratings 369:14 372:12,20 373:9,9 402:18 425:19 431:19 449:7,9 454:6,21 455:3 457:5 458:2 463:22 464:8,16 465:10,13,16,16 465:20 466:16 469:19 494:14 497:15 499:1,21 500:13 501:4 503:2 504:21 527:3,4 528:3,5 530:9,12 531:22 532:1 541:14,16 543:2 548:3 559:2 559:3 561:22 562:17 564:18,18 570:22 573:8 574:7,19 585:1,7 585:12 596:4 614:20 619:20 620:10 631:4,5 632:4,5 637:7 638:11,14,14 639:8,15 640:1,5 640:7,20 641:8,13	641:17 646:2 662:13 663:13,18 664:17 666:9,14 677:10 ratio 374:21 467:20 473:10,17 526:3,6 526:16 Raul 366:20 375:11 385:4 698:13 raw 375:19 378:9 379:19 380:4,13 380:20 381:21 389:6 394:11 396:10,17,17 399:1,21 406:1 509:5,7 511:3 605:16 609:19 613:19 617:20 618:13,16 627:20 628:7,9 653:16,22 reach 445:5 475:6 reached 581:21 read 442:20 488:1 491:19 518:9 580:13 581:15 585:5 596:1,19 603:4 611:20 626:18 632:1,1 638:4 676:18 679:5,7 699:5 reading 483:16 527:1 621:17 767:1 ready 521:15 real 613:5 realize 556:8 realize 400:20 really 387:7,11 38
--	---	---	--

478:14,17 484:18	579:6 595:14,15	466:1 525:1 528:7	485:10 697:8,11	373:2 414:11
486:4 491:18	623:19 625:1	548:13 553:18	Register 542:2	447:10 453:17
503:11 516:22	692:16 699:22	578:20 602:5	597:5	454:1 4 460:18
544:14,19 618:3	recommended	684:10 686:4	registered 563:20	463:21 464:9,11
619:15 634:9	467:22	referring 399:8	regression 367:15	465:12,17,19
686:9 691:16	recommending	403:5,18,19	460:13,15,16	466:22 467:3
692:18 700:20	491:16	525:12 527:9	461:9,11 462:10	469:17 499:1
701:6	reconvene 704:13	543:10 547:9	462:14,19 463:5	500:13,17 501:3
recall 371:4 8,9,14	reconvening	561:2 565:6 582:1	468:5 470:9,10	503:1 504:20
371:18 374:19	521:18	588:6 601:12	472:3,5,6,10	505:1 531:21
375:7 382:8	record 368:4 431:6	602:22 617:19	488:13 501:13	540:21 554:19
384:13 403:8,14	431:21 434:5	624:11 651:1	507:7,17,19	564:17 570:22
415:18 416:14,16	447:1 459:7,8	672:4 677:10	511:19 512:7	638:10 641:12
497:3 520:19	493:1 534:16	700:16	519:18 551:10	644:10 646:2,6
539:20 551:20	579:15 599:21	refers 442:9 489:15	571:19,22,22	686:2 698:16
578:4,10 579:1,11	608:22 609:1	525:21	572:3 574:22	relationships 419:2
579:16 580:13	690:8	reflect 369:15	592:2,14 593:7	437:14
587:2 591:5,8,9	recorded 392:2,4	424:8 590:21	594:6,7 595:22	relative 388:13
595:7 603:19,22	513:18 591:18,22	reflected 423:3	598:4,8 608:16	412:8,12 413:8,14
609:13 618:1	603:6 614:9	446:21 472:15	609:22 610:14	413:17,21 414:9
621:9,16 628:10	records 615:12	520:22 521:2	611:3,16 614:10	414:10,15,20
669:1,3,14 672:19	RECROSS 367:2	reflecting 424:21	615:7 617:8,10	432:13 445:10,14
682:21 692:17	425:9 431:15	652:3	628:12 629:3,7,10	445:20,21 446:3,8
695:20 697:17	redirect 367:2	reflection 392:8	629:12 630:13,21	446:17 422 447:11
RECD 367:8	419:8 425:7 700:7	414:17 420:17	640:6 645:20,22	447:13 471:17
receive 430:7 573:1	704:1	reflects 394:12	647:12,17 649:15	472:8 474:1
575:17 589:20	reduce 595:12	refused 374:13	651:21 655:1,10	475:14 476:6,8
622:8	596:4 597:16,21	refused 697:3	655:12 656:7	477:11,12,18
received 397:20,21	reduced 418:18	Reg 525:11 573:20	658:5,8,12,12	479:8 480:22
406:6 443:19	598:17 644:6	599:14	660:3,5 666:4	482:10 10 487:1,9
488:15,20 520:18	reduction 485:6	regard 398:21	669:18 673:1,4,16	494:9 506:1,12,19
603:8 618:12,15	562:16	431:3 475:6 491:9	675:7 677:11,13	519:8,10 519:14
622:16 672:20	redundant 551:11	493:5 496:19	686:1	519:8,10 548:11
694:17	551:15 703:10,11	516:20 520:3	regressions 468:10	549:10,11,19
receiving 477:3	Reel 490:14,15	522:7 536:20	469:1,20 509:9,12	550:11,21 565:19
recess 458:22	refer 403:16	548:20 555:16	510:17,20 608:1	565:21 566:1
459:11 608:20	541:21 563:7	583:8,8 590:14	regular 379:11	648:18,20 649:13
704:8	649:3 651:14	604:16 620:14	regulatory 439:21	649:16 652:18
recessed 521:22	654:10,20 655:21	623:17 663:21	622:16 668:19	682:20 683:8
reclassify 490:3	referee 438:15,18	664:8 666:17	reissue 683:5	685:3 687:12
recognition 399:20	reference 657:3	669:4,10 10 688:21	rejected 397:5	688:5,10,13,17
recognize 388:22	694:22	689:14 692:22	491:13 537:20	697:21 698:16
399:2 620:11	referenced 371:11	694:11 697:9,10	rejecting 475:22	relate 702:13
recognized 574:3	575:9 700:14	698:2	related 439:9	relatively 387:10
recollection 373:8	references 403:11	regarding 397:22	559:12,12	393:12 418:2,4
374:14 386:11,12	657:5	405:4 536:15	relationship 372:6	446:12 456:2
502:4 578:18	referred 380:19	462:4 482:10		

Neal R. Gross & Co., Inc.
202-234-4433

457:6 458:9	627:21 636:7,16	reruns 551:18	631:8 636:11,14	Reznick 450:7
462:18 485:5	682:2 698:8	research 425:21	669:18 677:11	466:12 488:16,20
503:5 509:8	replicated 490:18	respect 396:16	retain 574:12	520:18 618:8,12
535:13 576:21	report 413:9 486:4	458:16,18 461:15	retained 506:22	618:16 619:4
608:9 612:2,9	489:1 491:18	470:8 490:7,12	543:13 679:21,22	623:19 628:14,19
614:21	492:15,19 630:1	492:18 504:5,7	retaining 456:13	Reznick/Tribune
relevance 412:17	666:21 667:8,9	519:4,9,10 522:13	retention 537:14	489:10
537:22 538:11	reported 409:17	529:7 530:5 536:8	685:10	re-transmissions
540:4,4 572:16,18	669:17	549:6 557:20	retransmission	589:21
604:3	reporting 492:9	560:13 571:7	701:14	re-transmit 550:3
relevance 600:21	reports 441:3	573:1 576:2	retransmissions	557:5,22
relevant 369:6	473:2	577:22 582:20	471:3 473:18	re-transmitted
494:11 524:8	represent 369:17	601:17 650:15	516:8 690:19	533:4 545:21
575:10 604:7	375:17 394:9	respects 496:9	retransmit 448:5,6	556:5 559:2
reliable 441:1	493:20 533:11	respond 551:13	451:12 471:11,12	575:18 576:4,7
490:1	579:3,17 626:9	636:22 675:11	retransmitted	578:15
relied 447:21	representation	responded 669:9	392:19 450:21	re-transmitter
591:15 628:10	412:8,12 473:4	respondent 410:8	469:21 470:2	552:1 556:8
694:8	476:1 491:13	response 428:19	471:5 473:14,16	right 372:12 374:7
relies 481:18 574:6	604:9	495:14 609:8	479:1 484:12	377:7 379:3
rely 469:8 604:14	representations	653:20	500:4 501:6 615:2	387:19 391:21
remains 520:16	600:8	responsibilities	615:2 650:10	398:15 399:19
remedy 569:13	representative	434:22 435:3	revealed 471:9	401:1 410:19
remember 415:19	448:22 449:2,8	responsibility	480:8	422:3 425:8 439:7
416:6 424:16	451:9 454:11	435:7	revenue 540:2	458:21 480:4,10
482:17 488:11,13	526:2	rest 399:15	541:4,10 552:13	487:3 495:10
488:17 502:20	represented 375:22	restate 426:22	552:15,18 573:15	496:13 498:1
581:11 584:1	401:2 440:19,19	675:22 676:2	575:13,18 576:3	499:16,20 502:20
624:19 640:10	442:20 445:8	restrict 477:19	revenues 560:15	504:3 507:5 512:7
644:1 677:2 694:3	467:14 471:2	605:17	575:21	513:19 514:2,22
699:6	473:19 484:20	restricts 482:3	review 385:10	516:10,13 518:17
remembering	486:16 493:10	resulted 698:9	440:21 475:17	519:17 520:10
490:13	535:17 536:3	result 413:21 415:2	503:14 600:4	527:11 532:5
remove 641:7	620:4 670:19	463:16 469:19	694:20	535:12 536:12
removed 406:4	671:14	542:6 629:19	reviewed 371:5	537:10 540:22
repeat 487:20	representing 376:4	632:13 651:21	385:3,6 438:12	547:11 548:7,15
495:2 540:14	395:5 435:5 444:6	660:8 671:13	444:21 445:1,2,4	553:16 555:19
601:4 611:2 613:3	573:10 670:19	674:10 676:7	525:4,6 533:15	556:11,17,18,20
repeating 655:1	670:21 683:4	679:11	539:18 589:3	557:5,11,14
repeats 390:9	476:15 626:19	629:2,21 673:6,8	600:2	559:17 561:8
repertoire 560:17	627:2	674:17 678:19	reviewing 417:9	563:7,16 564:1,4
rephrase 412:19	requirements	results 387:14	593:9,12	564:10 565:10
replicable 636:4	668:20 669:3	469:2,12 470:6	revised 589:5	566:10 570:12
653:15	reread 638:1	472:3,5,7,10,14	revisit 490:7	579:13,14 581:10
replicate 511:4	675:22	475:20 519:20	rewind 657:19	582:3,5 597:7
	rerun 469:11	530:4 598:5 615:7	rewrite 638:16	604:13 608:17

Neal R. Gross & Co., Inc.
202-234-4433

612:20,22 613:1,5	royalty 364:1,8	499:3,6,7,22	383:20 391:11	SDC 398:6,7,12
622:12 628:10	368:5 410:18	500:3,10 501:18	404:5 405:22	se 364:14 506:20
631:12,19 634:15	411:14 440:16	501:18 502:22	407:14 409:3	574:4 592:11
635:7 639:16	444:4,11 467:22	503:20 504:5,7	413:2 420:17	593:1
642:16 648:7,10	475:19 487:15	505:4,5,12 515:19	421:9 453:14	Seal 534:4
651:2 654:5	488:3 490:19	517:20 531:20,20	502:11 509:19	seated 459:10
659:16,17 662:7	491:1,2,20 504:5	564:3 565:3,5,14	525:2 527:21	second 378:4,6
662:19,21 663:1,6	504:7 565:21	565:22 569:2,5	529:11 545:12	379:8 397:16
663:19 664:3	566:8 567:1 569:8	570:3 572:5,8	551:7 552:15	402:14 442:17
665:16 666:5	589:12	576:22 580:10	557:3 561:12	448:20 465:22
668:4 669:20,20	rule 412:1	582:2,6 583:9,10	581:1 582:22	473:12 475:11
672:11 674:9,15	run 459:19 500:7	583:16 584:21	584:7 587:7	476:11,19,21
676:6 677:15	509:9 510:16,20	585:1 586:10	612:12 613:1	488:11 490:20
680:2 684:21	572:3 574:22	590:19 591:6	617:20 655:20	498:5 553:21
689:9 691:4	591:13 592:5,8,20	598:12 601:20,22	656:12 657:17	558:15 596:8,14
692:15 697:19	595:6 607:22	602:2,4 604:2	666:16 671:1	641:18 691:21
699:4 703:17	647:12,13,17	607:15 612:10	679:9 685:19	secondly 447:4
rights 410:18 439:4	648:4,5,5 655:9	614:15 615:13	701:19 702:8	454:19 481:22
550:2 559:15	655:11 657:20	616:2 688:5,6	703:4	603:3
right-handed 607:3	658:4,12 681:12	690:5 694:8	says 375:17 442:7	second-to-the-last
ring 591:3	running 377:8	473:13 477:8	473:13 477:8	479:11
roadmap 510:13	469:19 504:14,17	581:19	487:11 525:11	secrets 587:19
511:5,6 521:7,8	630:21 660:4	samples 374:10	540:5 545:17	section 444:12,13
619:8 635:15,18	runs 651:7	392:9 448:10	567:10 574:21	573:19
636:6	Russian 614:17	454:11,12 462:18	580:15 607:16	see 372:18 373:1
Robinson 385:7		496:19 500:1	612:10,17 613:10	376:10 378:2
600:5	S	577:20 601:19	613:14 625:13	380:14 387:15
robust 469:2 470:3	S 441:17,19	603:21 612:13	637:22 647:14	391:11 400:13,19
470:11 572:1	safe 494:19	sampling 410:5	649:1,2,3,18	401:10,11 423:8
636:11	sake 546:20	450:20 452:14	650:20 651:12	432:13 441:1
robustness 468:8	sample 369:21	454:16 498:10	654:7 655:8,19	468:19 469:12
571:21	373:13,18 374:5	580:9 582:21	657:2 658:11	473:9 474:5,17
rolling 592:12	377:1 387:4,6,10	583:16 588:17	663:9 681:2	479:7,10 480:13
room 364:12	387:18,20 388:20	Santa 434:13	490:8 494:13	scale 374:3
517:22	390:5 414:22	satellite 383:13	510:8 512:9,17	scenario 392:5
rough 432:4 471:21	448:21,22 449:5	405:18	525:10 534:7,9	581:3 607:8
roughly 473:9	449:18,19 451:1,2	satisfy 470:10	540:20 544:21	608:13 619:18

501:5,7,18,19 502:13,19 503:4 503:19 504:1 517:20 577:1 580:10 646:3 685:22 sizes 373:18 387:5 387:10 388:20 415:6 skewed 608:17 skip 478:15 485:9 slash 657:13 sleeves 592:12 slightly 389:22 474:16 592:4 638:17 661:11 slot 442:18 517:9 547:7 slots 517:5 slower 447:6 small 373:5 392:16 392:16 393:7 409:17 424:12 428:13 436:2 451:13,13 454:7 462:18 485:5 517:19 525:9 533:1,2,5,6 535:13 559:5 573:19 612:1,2,10 614:14 615:12 640:11 smaller 451:17 482:15,20 499:5,6 500:3,4,15,18 504:2,12 572:9 smile 480:13 software 483:15 667:22 solve 585:3 somebody 383:15 424:17 429:14 586:16 someone's 644:3 somewhat 457:12 509:3 527:16 529:18 551:17	582:10 693:3 some-odd 579:12 song 560:11 561:4 561:9 songs 560:5,16 561:13,13 sophisticated 547:20 sorry 395:16 407:21 413:1 416:1 427:1 444:13 447:2 454:6 465:7 481:14 487:19 495:2 500:4 517:22 522:18 539:8 540:13 544:22 547:1 554:12 581:10 589:22 596:15 601:4 616:13 618:14 619:16 644:14 648:12 657:18 662:17 667:15 668:1 672:7 677:6,21 695:14 sort 372:19 383:18 390:17 391:6 428:2 437:4 438:12 454:2 456:18 462:6,9 463:2 464:14,22 469:7 470:4 481:7 481:15,19 492:14 494:1 499:5 500:7 503:3 513:3 522:9 527:10,13 540:19 552:12 554:17 557:6 570:19 580:4 592:12 608:16 611:22 623:16 625:21 626:2 628:4 629:14,19 631:7 636:13 639:4 650:4 651:22	655:4 656:6 661:7 664:22 671:13 678:19 679:16 683:17 684:4,7,8 684:15 691:6 696:10 sorts 653:10 sound 377:7 490:17 495:8 578:7 579:4 579:13 596:7 620:21 621:14 649:20 sounds 458:20 459:2 507:21 582:1,5 601:19 683:9 source 372:1 422:17 444:7,9 448:1,9 449:12,13 455:3 sources 420:20 421:19 422:1 427:21 447:21 448:12 450:13 452:12 630:18,20 630:22 647:8 space 654:18,18,18 speak 406:18 407:17 speaking 391:3 437:6,7 special 438:13 554:24 561:1 specials 446:14 specialty 436:6,12 specific 386:13 387:9 396:6 404:9 419:17 427:5 429:6 436:17 506:6 511:9 599:1 669:3 specifically 382:7 387:17 391:2 416:7,16 423:8 458:15 462:4 695:13 specification	468:12,16 469:4 507:17 509:12 571:18 592:15 593:7 595:22 598:5 653:22 specifications 507:19 specifics 393:1 418:15 460:5 speculate 400:1,5,7 speculation 399:4 400:2 408:18 spell 434:5 spent 436:2 592:11 spin 585:5 spit 679:3 spoke 420:1,8 455:15 521:3 sponsored 396:22 sports 456:15 558:1 spreads 571:12 stab 397:12 stability 505:2 stable 503:3,6 stack 621:20 staffing 435:5 standard 372:9 414:11,14,17,20 445:6 standpoint 379:4 689:18 staring 521:12 starker 473:17 start 450:10,12 454:8 460:14 472:20 478:19 520:1 542:22 555:6 558:3 567:22 568:1 627:8 631:14 645:10 648:3 653:15 655:15 656:1,20 665:8 started 428:7 430:10 435:15 449:20 590:22	starting 418:8 574:1,2 575:6 659:11 674:12 starts 442:17 655:19 state 397:19 434:4 492:8 507:6 697:14 stated 505:6 609:8 685:6 697:18 698:15,18 statement 375:12 402:15,22 403:5,7 407:13 408:20 411:8 423:18,19 506:6 521:1,6 522:11,14 533:13 544:19 550:8,11 631:2 states 427:3 432:4 440:3 448:4 484:13 535:2 680:19 station 373:3 386:4 386:18 388:12 392:19 401:6,7 407:20,20 412:10 419:15,18 427:11 443:5 450:1,2,11 450:12 466:18 469:22 476:11,19 476:21 478:1 479:2,5 480:17 481:8,10 501:5,20 503:4 510:16 516:17 530:9,13 534:14,19 540:1 545:21 546:15,18 546:19 547:12,13 548:2 550:2 561:20 562:3 655:7,8 578:3 582:12 598:21 615:5 624:3 610:10 637:12 639:2 683:12,20 687:4 694:8
---	---	--	---	---

Neal R. Gross & Co., Inc.
202-234-4433

697:11 698:17 701:13 702:8,11 stations 372:5,7 373:4 385:19 386:6,7 392:16,17 393:4 400:13,16 400:17,20 401:12 401:14,16,20 402:1 404:1 405:9 411:19,21 419:21 420:18 421:2,4,10 423:13,15,17 426:5 427:3,7,10 427:18,21 428:6 428:21 429:22 448:17 449:3,5,8 449:17,18,18 450:21 451:8,11 451:13,14 452:13 452:17 453:5 454:5,7,7 462:2,3 462:4,10 464:5 465:16 466:1 467:16 468:3 469:4,10 470:2 471:9 481:7 482:5 482:11 483:20 485:4 496:22 497:1,12 498:3,9 498:10 499:6,7,15 499:17,17,18 500:5,12,15,18,19 502:2,16 503:9,9 503:18 504:12 514:4,10 515:19 516:17 530:9,13 530:20 532:1,9,12 533:3,4,14,22 534:12 535:2,7 536:3 543:3 547:19 556:19 559:2 563:12,13 563:14,16,21 565:5 566:2,10,11 566:13,18 567:4,6 567:11,13 568:9 568:10 569:6,9,11	570:7,10,16,17,19 571:10,12 575:18 575:22 576:16 578:6,9,11,12,16 578:22 579:1,9,12 579:20 580:2,6,17 580:18,20,21 581:14,14,19 582:4 588:17 590:4,4,6,6,17,19 590:22 591:1,7,10 591:11 601:1,7,14 602:3,8,14 616:3 618:20 631:3 632:3 637:8 674:3 674:8,21 676:5 689:15,16,21 690:4,10,11 691:3 701:16,22 702:5 702:20 station-by 701:12 station-by-station 532:3 statistic 391:12 statistical 434:21 435:9 437:12 460:17 468:11,16 482:9 503:7 661:17 667:21 statistically 447:5 463:21 465:18 569:4 585:8 615:14 640:19 643:8 statistically-signi... 447:9 statistician 655:11 statistics 436:20 437:7 438:19 440:6 461:5 468:15 602:22 605:15 648:14 660:14 667:19 statutory 556:7,10 556:12,13 step 382:20 390:16 405:11 411:16	447:20,21,22 466:7,8 523:18 622:20 658:11 660:4 678:2,3,11 678:12,15 steps 447:17 498:22 499:10 510:13 519:18 572:5 603:5,7 636:13 637:4 760:12,17 stick 658:13 sticking 394:1 stint 435:18 stop 665:3 694:3 Store 486:16 story 387:21 395:10 straight 396:9 straightforward 509:9 542:1 strategy 582:21 stratified 451:1,2,4 451:16 498:9 stream 630:9 streaming 421:18 422:1 street 365:6,10 366:12 636:20,21 stress 393:4 611:13 stricken 402:8 Strickler 364:22 382:19 383:1,18 384:8,18,21 390:3 391:10,18 394:22 395:9,12 414:7 450:17 451:15,19 452:8,11,22 453:13 454:14,22 455:6,12 459:12 469:5 498:4,7 499:8 501:16 502:8 512:18 548:16,19 549:17 549:22 551:3 553:20 555:4 556:2 557:2,12	558:14 562:13 569:16 575:11 576:5 583:7 584:10 585:13 586:4,18,20 587:2 587:15 596:21 597:4,9 598:16 599:5,13,16,22 604:15 605:9,12 605:20 606:5 638:18,21 639:7 639:14,17,22 641:4,14 642:5,9 642:12,19 643:10 643:16 644:5,12 645:7,12 658:20 659:1,9,14,18 661:3,12,16 662:7 662:15,21 663:1,6 663:16,20 664:3 664:13 665:11,19 666:15 667:1,10 667:14,17 668:2,6 668:8,11 669:5 681:7,10,16,20 682:9 691:12,15 691:19 692:1,10 692:17 693:13,20 694:4 strike 468:6 493:22 618:4 strikes 664:5 strip 388:18 strong 407:13 465:18 686:22 stronger 408:20 strongly 529:22 530:2 structure 556:6 stuck 469:15 student 438:3 studied 473:14 689:15 studies 416:17 577:13,14 578:21 578:21 582:14,16 607:1 668:22	study 375:5 385:20 388:4,9 389:9 409:22 410:18 411:13 413:22 424:1 437:4,8 506:6 530:8 535:8 538:14,15,16 540:9 542:6,12,16 563:12 573:21 575:1 576:16 577:19 578:22 579:22 580:1,16 583:3 585:15 588:1,5,6,8,9,10 589:2,3,5 590:7 591:16 597:16,21 597:19 601:2,8,12 603:11,12 602:13 653:11,12 689:17 689:21 690:12 694:13 studying 436:8 stuff 652:15 styled 545:13 subheading 620:6 subject 436:5 submit 438:20 submitted 524:7 subscribe 574:15 subscriber 446:20 537:11,13,14 541:19 554:20 573:16 685:9 701:22 subscribers 447:7 stronger 449:2 451:6 464:20 465:10,15 466:17 469:11 476:20 480:18 501:8 504:22 537:8 551:6,9 552:19 553:11,12 553:17 554:6,7,11 554:12,13 555:3 570:20 574:12 575:8 615:6 637:12 638:12
--	--	---	---	---

Neal R. Gross & Co., Inc.
202-234-4433

686:3 698:17 701:15 702:7 subscribership 702:21 subsequent 391:1,7 561:22 subsequently 414:1 subsect 499:17,18 499:22 531:10 615:17 substantial 387:4 479:18 substantially 430:20 456:10 subtle 462:13 611:13 successive 519:12 sufficient 499:12 577:6 689:17 sufficiently 568:22 suggest 389:19 687:19 700:1 suggesting 472:1 580:19 695:21 sum 507:8,18 629:16 652:17 679:2 summed 679:10,10 summer 435:16 sums 507:9 Sunday 693:15 super 429:15 supervised 442:1 supplied 474:9 681:21 682:1 supplier 444:5 456:18 457:4 533:7 535:18 651:4 suppliers 375:13 411:14 440:17 456:16 490:6 495:16 496:8,12 496:16 685:18 supplier's 554:15 supply 681:21 suppose 379:22	471:8 491:19 549:15 572:19 587:5 593:21 600:21 supposed 376:4 sure 371:7 376:7 380:21 381:15 384:1,6 386:9 397:1 399:15,22 400:3 409:21 421:5 427:2 432:1 436:1,7 445:15 451:4,8 452:10 453:22 454:9 460:1 463:18 495:4 504:18 510:8 521:8 524:4,13 532:8 543:11 568:3 572:5 585:11 586:1 601:6,10 606:15 613:4 614:3 624:22 631:14 636:3 645:19 647:7 655:22 659:20 670:22 671:3 672:10,21 674:6,14 675:14 677:9 681:9 695:6 697:19 surprise 371:20 608:12 surprising 373:1 388:5 421:11 470:13 636:12 survey 390:8,11,11 390:12 535:8 538:5,9,18,22,22 539:5 540:18 605:3 surveyed 369:18 533:14 536:3 surveys 668:21 suspect 529:22 530:2 559:22 581:1 586:2	suspecting 577:5 sustained 397:4 411:7,10 412:18 511:15 538:2 539:12 568:4 653:5 687:16 SUZANNE 364:19 sweep 525:22 sweeps 369:6 377:1 379:11 381:10 392:11 442:8 448:17 462:1 464:5 528:7,14 528:20 564:10 611:11 swings 577:7 switched 683:2 switching 683:3 SWORN 433:15 syndicated 413:13 446:14 614:22 syndication 480:13 558:4 syndicator 555:9 syndicators 557:4 system 421:22 447:2 457:19 537:6,9 540:22 541:17 542:19,19 543:1 545:15 546:16 548:5 552:2 555:12 559:19 systems 421:4 428:6,12 559:9 690:14,18 T table 468:14 t686 367:1 478:15 478:16,19 480:8,8 484:18 486:3,4 516:21,21 518:12 546:8 639:7 644:7 663:4 686:13 691:16 tabulation 593:11	tad 595:6 tail 608:17 take 375:8 390:16 405:11 431:5 447:20 457:1,7,9 458:17,22 472:18 478:8 499:11 500:2,12 510:13 510:14 523:21 527:17 528:5 542:21 544:12 550:5 567:11 575:7 580:3 592:16 608:19 618:2,4 620:3 652:4 660:4 681:11 686:8 taken 477:11 478:9 482:1 530:9,13 550:20 603:7 668:15 takes 387:3 473:12 476:16,17 485:19 567:12 684:16 talk 447:20 453:16 458:14 476:22 545:18,21 546:1,2 546:7 558:4 561:18 568:20 585:4 588:11,14 596:9 703:12 talked 403:5 431:18,19 481:19 511:17 537:18 555:6 563:5 629:12 685:10 689:2 talking 372:15 398:6 404:18 419:14 420:15 457:16 506:17 508:2 524:4 558:3 561:17 562:1,2 563:6 568:15 570:6,9 572:13 574:17 603:13 616:17 626:11	678:4 talks 701:18 taller 473:5 taping 424:19 task 444:20 taught 437:18,22 438:3,4,6 teach 437:21 team 511:1,2 622:1 622:1 626:17 628:8 636:5 681:11,11 682:1 technical 599:1 technologies 428:14 technology 422:15 429:17 tedious 509:8 622:5 teens 430:21 television 376:5 417:17 419:2 420:17 421:1 422:21 423:1 427:13 432:16 439:10 697:11 televisions 608:14 tell 383:7 389:17 407:8 426:8 427:8 428:4 445:13 509:21 510:11 546:15 549:8 577:1 581:16 584:14,15,16 585:13 598:9,10 599:8 610:21 615:9 645:18 651:18 652:17 653:9 657:18 672:7 679:1 699:11 telling 593:17 642:14 647:6 654:12 655:9 656:9 657:11 tells 641:10 647:16 656:5 659:21 temp 633:17 673:6
--	---	---	---	---

Neal R. Gross & Co., Inc.
202-234-4433

temporary 632:22 633:3,20,21 652:7 671:7 674:17 676:7,8 678:20 ten 370:11 562:4 tend 390:6 418:4 419:1 483:17 484:17 tending 420:21 tends 418:13 462:17 tenths 393:8 tenured 438:1 terabyte 635:1 term 414:8 521:7 673:2 terminology 405:1 terms 370:12 373:20 376:9 382:7 384:1 389:17 410:9 413:12 419:2 420:8,15 426:18 427:21 431:18 436:18 456:12 457:2 468:13,14 469:10,17 477:18 483:15 494:3 497:15 500:10 501:6 502:1,12 550:11 552:19 578:3 593:19 607:8 654:5 659:4 661:11 668:21 670:22 677:12 680:8 685:3 690:18 terribly 388:5 test 468:7,14 504:9 511:19 571:21 664:21 testified 368:22 381:9 415:8,16 416:2,11 433:16 439:19,22 440:1 510:2 514:6,11 536:5 569:22	583:13 619:3 671:12,18 673:5 688:19 697:13 testify 404:15 416:21 536:1 538:18 testifying 411:3,6 416:20 567:18 testimonies 506:2 507:11 519:7 600:8 testimony 367:19 367:21 369:12 373:7,21 375:11 375:14 380:9,9 385:4,7,11 395:20 396:19 397:5 403:11 405:2 409:1 428:19 429:1 441:16,18 442:6,15 444:22 445:2,3 455:15,20 466:20 472:15,16 475:15,16,17,21 478:1,17 478:14 478:17 482:18 483:13 484:18 485:16 487:11,21 493:5,8 495:16 496:18 498:2 503:1,11,12 511:17 512:10,11,11,15 515:5 517:1 518:9 520:19 528:16 544:14 548:14,22 567:21 578:2 600:2,4 604:14 611:20 617:3 618:3 621:10,14 621:16,17 628:11 630:17 634:10 637:5 638:9 642:3 647:10 678:9 679:6 680:11 685:7,11,18 686:5 686:9 691:17 694:21 695:5,21	696:7 698:21 699:12 700:15,19 701:12 702:12 testing 468:16 tests 468:11,20 469:7 499:4 511:18 570:2,5,11 575:10 599:4,16 599:22 609:4 621:11 624:21 626:4 644:13 658:22 668:8 676:10 694:4 699:15 700:12 701:6 704:10 theirs 544:3 theme 551:22 thereof 659:5 thing 402:14 463:18 469:15 529:19 540:19 542:13 580:4 582:22 595:21 613:3 614:7 656:9 663:12 671:1 things 393:11 406:2 469:3 478:8 482:14 528:11 539:1,12 540:8 572:11 585:3 595:13 602:21 603:15 607:13	611:4 621:6 630:4 640:4 644:22 653:10 655:20 689:18 690:2 think 369:11 384:19 389:14 396:5,21 399:5 402:20 403:2 404:14 409:8 412:7,11 424:22 425:1 426:16 450:22 455:1 456:5 460:7 472:9 472:11 489:14 490:12,21 496:3 497:4,5 505:7 509:4 513:3 514:5 520:8 529:4,12,14 530:6 531:1 533:15 544:14 550:19 551:16,17 554:3 560:18 562:20 564:22 572:10 573:16 577:12 578:2,4 581:16,17 582:7,9 582:11,19 585:19
---	---	---	---

390:20 391:6,15	481:1,2 487:4	560:15 637:10,11	476:7 483:12	413:4 417:5
393:5,13 404:3	552:7 564:9 584:4	678:5,13 684:18	499:4,11 527:3	457:11 441:11
409:13 410:16	590:5 593:17	totalling 384:11	549:18 551:16	442:5,14 445:22
411:18,21 413:4	641:2 664:20	touching 512:1	553:5 565:1	447:10 448:10,11
414:21 415:10	675:6 677:17	tough 388:15	569:13 583:17	450:8 457:19
420:18 421:19	679:19 689:5,22	track 422:9 438:2	584:21 589:15	462:9 466:10
424:12 48 426:7	692:22 693:1	trade 445:19	597:16,21 611:12	469:20 477:1
428:3 429:9,20	tired 644:14	traditional 423:1	643:14 650:18	478:13,18 479:9
430:1,21 431:8	title 442:19 452:6	translate 559:3	661:21 670:20	480:9 482:14
439:16 442:18	624:8 695:3,8	translates 411:1	trying 373:3	486:7 487:7 490:8
450:10,12 458:7	titles 443:3,4	transmission 548:2	388:10 413:21	492:9,18,20 495:4
458:11,21 459:22	451:22 452:4	transmissions	428:17 501:15	495:8 496:19
462:10 476:10,13	467:18,20 483:2	471:1	527:17 529:16	497:9 517:8 524:6
477:22 479:5	483:1,11,11 555:13	transmit 539:22	540:6,7 546:10,17	524:9,10 543:14
485:11,12,16,22	589:18,20 620:11	547:17 552:3	549:9 551:13	545:14,16,18
486:17,19,22	620:18 621:3,3	556:19	583:21 584:11	546:5,6,19 554:9
487:8,12 493:6	623:7 671:17,19	transmitted 535:2	593:20 612:15	554:22 566:14
504:14,17 517:5,9	672:1,12,17	579:9 701:17	621:8 644:1 650:4	585:3 602:21
520:3,5 521:17,18	694:14 695:10,12	transmitter 550:1	664:8 665:15,15	607:4,13 618:22
524:20 526:3,13	696:17 697:5	trend 661:8	675:15 676:18	627:12 628:18
527:9 528:12	today 430:13,15	trends 643:7	687:20	630:10 631:16
539:19 543:19,21	520:20 579:10	Tribunal 573:22	Tuesday 364:10	632:14,14 633:8
546:9 547:7 564:6	584:5 606:2,4	Tribune 443:2	693:16	633:13 634:19
575:17 577:1,1	629:13 630:17	449:14,14,15	tuned 432:21	635:13 640:3
578:6,9,16 579:7	669:2	452:3,6 466:11,13	608:14	644:6,21 655:5,19
579:9 580:1	token 519:13	618:16,18 631:6	turn 395:14 474:21	656:10 660:16
587:12 592:12	told 494:17 535:11	632:5 650:7 651:4	496:18 537:12	664:19 671:6
597:7 609:1,12,20	535:12 620:17	651:7 657:4 674:3	562:17 635:1	674:16 672:20
622:13 626:15	627:19 642:13	674:7,20 676:5	655:17,18 657:1	686:7 690:2
637:9,18,21 638:4	682:12 696:15	681:2 694:16,22	659:6	701:19 702:3,11
639:1,11,19 641:8	tomorrow 700:6	tried 393:4 485:21	turned 391:22	703:11
641:17,19,20	701:3,8	493:11 568:21	468:21 489:2	two-hundred
642:20 643:12	tool 461:4 463:7	571:14 700:1	502:15 507:16,18	570:12
646:3,4 648:18	tools 460:17 468:5	tries 538:22	507:20 509:11	tying 405:10
658:3 659:16	468:6 527:18	trouble 509:18	512:22 640:8,14	type 384:4,15 390:2
661:6,8,18 662:1	top 416:7 501:1	troubled 498:13	691:2	391:3 402:15
663:21 664:8	503:19,20 525:14	true 375:2 392:14	turning 646:4	418:13 449:22
665:3,4,22 666:5	545:15 692:2	392:17,22 393:14	655:15	451:11,12,17
666:9,11,12	699:3	410:2,3,22 443:7	TV 421:19 422:16	456:9 457:2
683:16,16 684:10	topic 554:3 575:12	458:4,10 503:17	425:19 426:7,20	466:17 478:6
684:12,14 686:19	Toronto 494:5,20	523:8 533:2	427:2,17 562:2	489:14 525:10
687:4 688:21	total 383:4 395:6	541:15 571:12	twice 477:9 684:8	559:18 562:21
689:6,19 690:1	395:10 448:7	573:3 590:20	twisting 587:10	615:1 639:2 646:5
692:22 693:7,22	471:3 474:1,9	634:4 687:10	two 379:5,6,12	650:22 656:10
times 377:16,17,17	506:13 513:4,16	694:7,14 702:5,19	383:5,11 384:11	667:8 668:22
410:12 412:10	515:16 519:20	truth 638:15 703:2	387:22 391:20	types 373:1 455:21
415:8 473:14	534:1 548:4	try 373:4 376:20	393:2,6 405:5	456:5,6 651:3,8

Neal R. Gross & Co., Inc.
202-234-4433

656:8,17 657:4	370:15 391:4	561:1	585:10,15 586:15	values 476:9 479:4
typical 393:9	395:1 398:17,18	unit 660:19	587:7 596:3 612:4	510:5 6,6 693:10
typically 562:9	415:9 444:1,11	United 427:3 432:4	622:11 623:22	variable 460:21,22
625:20	452:14 453:14	440:2 448:4	661:20	461:2,12,14
	484:10,14 485:2	484:13 490:4	useful 463:7 542:12	468:17 485:13
	489:2 493:7,10	535:2	usefulness 541:16	647:19,20 648:15
	504:19 509:19	universe 432:2,9	uses 483:15 486:1	657:12 660:11,12
	514:15 529:14	482:2 515:21	U.S. 490:4 606:19	662:19 666:18
	531:12 533:21	University 434:11	607:9	variables 460:19
	551:13 552:20	434:13 437:22		615:6,9 639:1,3,9
	588:13 592:6	438:4,5		640:11,13,17
	596:11 597:16,17	unknown 461:14	vacation 599:20	641:6 643:2 644:2
	597:18 614:4	unnecessarily	vague 529:18 579:6	644:16 647:11,18
	640:15 659:3	477:17	valid 467:16 482:9	648:17 649:11,12
	664:20 667:10	unpopular 561:12	569:4 615:14	650:6,8 660:7,16
	671:4 677:1 679:8	unquote 392:16	validly 569:8	660:17,17 662:6
	695:6,15 696:22	442:8 458:4	valuable 456:22	665:13
	702:15	unrealistic 555:15	472:11 473:15	variant 667:13
	understanding	unrelated 574:13	549:13 550:14	variation 656:5
	373:21 376:3,13	unreliable 475:10	685:8	695:4,8,11
	406:10,14,17	520:15	value 409:22 411:1	varied 497:4
	407:7 411:12	unusual 608:10	439:6 445:10,13	varies 430:18 456:9
	419:18 436:8	update 474:15	445:14,15,20,21	variety 430:19
	444:8 9 456:8	updated 474:16	445:22 446:4,9,17	456:6
	476:3 514:17	UPN 649:18,21	447:13 458:4,11	various 435:2
	515:1 532:15,22	650:11,14	461:2,12,13	445:4 452:12
	533:8 534:13	upper 469:13	471:17 472:8	468:11 517:5
	536:19 538:8	492:14 530:16	475:15 476:6,8	550:3 581:15
	575:20,22 576:2,6	upstream 630:3	477:11 478:3,10	590:21 634:10
	576:13 589:11,18	Urba-Champa...	479:6,8 480:22	651:2 665:12
	603:2 613:11	438:1	482:11 487:2,9	vary 402:16 693:11
	671:22 682:3,6	urging 586:22	507:13 508:3	vary 567:14 701:13
	691:8 694:10	usage 420:17 422:5	510:3,9 511:9	701:18
	695:18	422:14,21 423:1	517:7 537:3	Venevison 490:16
	understood 369:10	424:8	540:21 541:17	490:17
	383:3 489:11	use 375:6 388:15	542:11 547:18	verbally 554:18
	532:21 649:17	438:19 453:7	548:11 549:10,19	VERNON 366:21
	670:14	454:15 455:1	549:20 550:11,21	version 702:1,22
	undertook 447:18	461:13 462:10,20	561:10 571:11	version 512:21,21
	460:6 466:5	463:15,17 468:7	574:5,7,10,19	697:4
	486:18 469:9	468:13 469:9	575:4 617:17,18	versus 389:12
	unfortunately	700:6	658:10,13 661:20	405:19 420:11
	uniform 692:6	500:20,21 541:14	677:21 678:7	504:10 510:9
	unique 394:13	558:12 560:16	680:19 681:3	549:11 563:15
	414:21 471:1	564:20 570:19	685:4 695:10	567:16 568:15
	473:3,7,11,13	576:16 578:1	697:21	689:21 693:15
	513:5 516:7,7	582:8 584:21	valued 542:9	696:7

Neal R. Gross & Co., Inc.
202-234-4433

vive 702:1,22	666:1 678:14	494:14 497:16	viewpoint 542:15	Warner 494:21
VICTORIA 365:5	682:20 683:8,11	499:2,19 500:14	virtually 430:3	Washington
video 422:1 486:15	683:15,15,18,22	501:4 502:21	volume 471:3	364:14 365:7,11
554:5	684:1,11 685:1,7	503:3 505:2,5,10	474:1,9 480:4	366:14
videotapes 422:15	686:3,21	506:7,12 507:13	513:4 515:16,19	wasn't 452:17
videotaping 424:14	viewership-based	508:18 509:10,13	574:13	502:14,18 506:22
view 503:7 542:10	523:6	509:14 510:21		518:7 556:13
651:13 652:20	viewing 369:15,17	518:13 525:19,21	W	573:18 584:18
657:9,13 658:16	371:12,16 372:5	526:4,7 527:17,19	wacky 501:11	587:8 630:3
673:13 683:12	372:19 373:6	528:3,6 559:5	wait 645:9,12	633:21 634:12,15
viewed 393:10	375:5 376:5,11	566:17,21 571:1	691:21	634:16 670:14
410:9 422:7	380:3,15 381:21	574:3,6,10,14	walk 476:7	673:21,22 680:4,5
526:19,21	385:14,19,21	577:17 589:19	walking 645:10	680:6
viewer 385:20	386:6,19 387:1,9	591:2,8,17,18,21	want 369:11 376:20	watch 417:17
571:7 591:15	387:14 388:3,21	591:22 592:2,6	380:21 424:20	550:16
601:2 603:6	389:6,10,16,19,22	593:5 594:1,4,12	456:15 493:21	watched 392:1,2
viewers 469:18	390:4 391:1,7,9	594:14 595:8,13	504:18 505:2	watches 550:1,9
477:9 517:15	391:11 392:2,3,5	595:19 596:5,6	521:11 522:2	watching 391:14,19
526:16,17 551:7,7	392:6,15,21 393:7	597:17,22 598:8	532:8 539:9 544:9	391:19 409:4,13
551:9 552:4,8,9	393:12,16,19	598:10,13,14,19	547:5 549:12	432:2,5 456:21
553:3,4,7 574:8	394:14 395:4,6,7	599:6 600:10	552:2 553:1	457:2 479:15
637:8 639:10,19	396:18 400:22	601:1,7 602:4,13	554:14,19 561:18	481:3
640:2 641:20	401:6,13,22 402:9	602:19 603:12,21	567:22 572:8	water 542:21
642:21 643:13	402:19 403:22	604:10,18 606:6	575:14 579:13,14	wave 468:18
663:18 664:17	405:5,7,9 409:1,3	606:14 608:8,14	581:12 584:13,14	wax 560:7
683:20 684:6	409:7,11,17 410:1	609:8,10,12	584:15 585:21	way 373:17 383:22
viewership 412:15	410:7,12,15,21,22	610:13,15,17,18	587:13 593:18	386:8 388:21,22
428:22 439:17	411:22 412:4,9	611:5,9,10,16,17	606:15,19 612:4	390:18 391:12
446:7 447:1,11,15	415:2 417:9,10	612:22 612:6,8,11	613:3 614:3 618:5	401:5,7 411:19
457:6 458:7,8,16	418:1,8,11,17,20	612:14 613:10,15	633:17 640:10	410:5,7 418:21
460:6,12 461:10	419:2,14,17,19	613:15,17,20	644:20 657:15	417:14 418:19
471:17 474:13,18	420:11,20 421:6	614:5,8,9,12,15	658:15 662:10	421:17,21 424:22
476:7,14,15,17	421:10 422:22	615:10,18 616:1,4	664:9 666:16	464:13 474:17
477:2,4,6,12,18	424:9 425:1 429:4	616:6,10,12,16,19	668:10 671:3	479:12 509:3,4,21
478:5,10 479:12	431:2 432:10,19	616:22 617:7,11	672:10 674:13,14	519:19 540:10
480:7 482:10	446:22 448:16	629:14 638:11	675:11 679:7	545:12 549:16
485:18 517:10,12	454:5,6,10,10,20	641:13 644:17	679:18 702:12	562:20 569:3
537:2,10 540:20	455:5,6 456:8,9	646:7,8 647:21	wanted 425:11	604:18 608:16
543:7 522:22 544:2	457:8,10,16,18,21	650:6,12,16,19	451:7 463:20	626:17 627:18
544:8,10 549:3	458:2,18 461:16	651:20 657:22	464:9 465:22	637:4 638:2 644:7
550:7 551:11,14	461:21 462:4,8,11	658:7 659:16,21	487:18 488:11	652:2 656:15
552:11,17 553:10	462:16,22 463:3,4	660:5 661:1,10	497:7 543:18	662:3,4,5 671:21
554:12,16,20	463:8 522 464:4,7	662:1,11 663:14	546:6 585:15	675:17 684:14
555:2,15 558:13	465:11,13,20	665:6 669:9	586:9 616:4	693:4,5
565:20 566:22	466:16 467:1,7,17	679:13 680:9	634:22 637:6	ways 642:3
575:4 605:4 615:4	467:21 480:2	684:16,18,20	wants 404:15 524:9	WB 649:18
629:18 652:18	487:5 489:8 491:2	686:15 687:5	550:19 551:5	WBBB 546:19

666:19 668:6 674:12,16 677:15 677:19 678:7,8 680:11 683:3 692:16 703:6 year 370:21 373:16 374:11 385:15 394:12 436:3 448:18 449:4,11 461:18 463:11 464:4 465:1,2,5 467:10 473:7,10 474:6 485:7 487:17 488:1,2,4 488:5,6 491:20,21 491:21,22 492:1 497:4 498:3 524:21 525:5 528:9 531:4,19 564:8 565:5 566:2 566:3,18,20 569:6 576:20 583:6 590:18 602:8 604:12 610:12 611:7 628:21 629:18 639:2 646:5 649:2,16 661:4,10 678:10 690:4,5 years 368:6 369:7 389:7,10 418:7 420:11,12 423:21 426:12 435:22 437:17 445:2 461:7 465:3 467:10 474:10 475:21 494:17 531:5 581:15 594:15 602:16,19 604:11 631:3 632:3 649:4,13 657:5 yeyes 593:13 yesterday 373:7 403:6,7 408:22 409:10 491:9 587:22	yield 576:21 yields 464:22 York 576:7,11 youngest 486:11 <u>Z</u> Z 478:21 480:10,21 481:3 zero 371:11,16 372:5,19 375:5 376:11 380:3,15 381:21 385:13,19 385:21 386:6 387:8,14 388:3,21 389:6,10,16,19 390:4,9,19 391:1,11,15 392:5 392:15,21 393:16 393:18 394:14 395:3,6,6 396:18 400:22 401:5,13 401:22 402:8,19 405:5 409:1,2,7 410:1,21,22 411:22 412:3,4 419:13,19 420:10 421:8 429:4 552:19 591:2,8,17 591:21 592:6 594:3,12,14 595:8 595:13,19 596:4,6 597:17,22 598:10 598:19 599:6 600:10 601:1,6 602:4,13,19 603:5 603:12,20 604:10 604:18 605:4 606:6,14 608:8 609:7,10,12 610:13,15,17,17 610:18 612:10,14 613:10,15,17,20 614:5,8,8,15 615:12 616:4,12 616:15 617:1,7,11 617:17,17 624:20 648:11 658:6	zeros 402:12 zeros 390:12 391:19 592:11,17 593:2,8 594:3 596:10 599:11 605:19 zero-viewing 591:14 z-statistics 468:15 <u>S</u> S70 372:2 <u>0</u> 00 367:13 <u>1</u> 1 374:21 385:20 390:19 431:20 456:14 473:2 478:15 482:6 496:17 515:9 535:14 537:20 539:16 541:3 542:3,4,5 554:3 557:15,20 580:18 633:7,7 635:8,10 648:5 650:22 651:7 662:18 686:13 690:13,17 690:17 691:5,16 694:9 1,000 387:2 615:11 1,600 620:17 1,22 659:21 660:22 1,221914 659:19 1,6 465:7,8 467:3 1,30 418:17 521:17 10 414:13 432:5,7,8 432:8,20,21 433:1 487:4 494:17 529:10,11 545:19 545:22 568:12 607:7,22 608:3 10,000 370:9 374:6 374:19 377:10 518:3,3,15,16 552:4 687:12	688:14 10,752 377:6,20 378:16 10,888 518:16 10,000 486:15,17 14473:10 14,000 568:17 14,4 484:1 15441:19 442:7 473:9 525:11 608:20 637:8 704:2 15,000 526:16 15-minute 661:6 15,290 525:8 15,301 573:21 16 376:4 377:5,17 378:10,18 379:7 381:9 442:14 692:11 16-week 377:1 16,6 487:16 488:7 17 699:14,16 17th 534:18 17,000 567:15 568:16 17,1 488:6 17,7 488:3 18431:20 700:14 701:6 18,621 687:7 1800s 655:11 1818 366:12 1950s 426:1 427:4 427:11 1960s 426:20 427:5 1965 427:6 1969 427:6 1976 444:14 1978 427:18 428:7 429:10 1983 573:22 579:2 1988 429:8 1989 523:11,20,22 537:21 573:20 585:5 688:19 1990 427:18 1997 370:20 371:3
---	--	--	--

Neal R. Gross & Co., Inc.
202-234-4433

594:9 595:7 597:3 602:15 1998 542:2 1999 542:2 <u>2</u> 2 390:20 418:2,8 474:1 478:16,19 482:6 516:21,21 518:12 558:9 607:7 619:15,16 619:19 624:7 633:7 634:9 635:9 635:10 650:22 659:6 670:10,20 671:14 672:5,16 690:10,13,17 691:6 694:9 2nd 420:7 2,108 687:6 2,700 479:14 2,5 414:14 2,7 485:6 2,30 418:11 2,52 608:22 20 428:12 432:22 433:1 441:17 521:10 535:1 545:20 546:2,22 552:7 570:10,15 571:10 572:14 579:3 607:7,22 615:21 20th 365:10 200 503:19 567:13 583:6 590:5 643:22,22 200-plus 590:19 2000 364:7 385:12 394:13 428:8 440:18 444:4 449:4 465:2 474:10 487:17 488:2 491:21 531:5 566:18 578:6 581:19 600:9 624:13	628:21 649:8,9,16 661:10,13 672:2,3 2000-03 364:8 2000-2003 368:6 20002 431:8 2001 370:21 371:2 375:3 465:3 474:17 488:4 491:21 531:5 566:19 581:20 594:9 597:3 649:3 657:5 661:4 2002 364:8 374:12 420:13 435:15 486:13 488:5 491:22 566:19 581:20 591:5 649:3,6 661:4 2003 364:8 374:13 376:6 385:13 420:13 440:18 444:4 449:4 465:3 474:1,11,18 487:17 488:6 492:1 531:6 566:19 578:7 581:21 590:21 600:9 628:22 649:3 657:5 661:5 692:12,12 20036 365:11 366:14 20037-1122 365:7 2004 539:17 541:3 2005 539:17 541:3 2006 435:16 2008-02 364:7 2009 435:16 2012 441:18 658:4 2013 364:11 441:19 698:7 202 365:8,12 366:15 203 565:7 21 658:4 698:7 21st 491:7 21,000 384:6 473:20	21,504 378:5 213 365:22 22 472:20 486:4 516:3,5 648:5 225 568:18 23 474:5 516:4 23,8 487:16 488:4 230 503:20 567:13 568:10,18 689:22 230 365:6 235 590:5 24 377:3,16 379:8 448:18 449:10 463:10 467:8 474:5 566:19 641:2 684:16 24-hour 417:10 684:19 247 468:1 240 689:22 245,000 474:7 25 387:19 414:15 429:19 430:1 437:17 570:10,15 571:10 572:14 25,000 374:8,9,17 374:18 387:6,17 26 474:13 491:17 492:12 692:12 290 525:12 <u>3</u> 3 388:1 474:13 482:4,14,20 484:18 578:5,15 633:16 650:22 667:22 668:2,4 691:2 694:8 3rd 486:17 3,000 567:16 568:15 3,00 418:11 693:14 693:15 3:12 609:1 30 429:13,14 430:11 477:10 481:1 651:7 657:3	300 461:7 690:11 306 599:20 307 599:21 32 378:10 379:9 33 482:18 35 482:19 681:4 355-7917 366:15 3613 542:2 364 367:19 441:10 441:15,16 443:7 394:3 365 367:21 373:16 441:11,15,18 443:7,12,15,19 468:1 365/24/7 468:2 366/5 474:22 368 367:4 394 367:11 <u>4</u> 4 364:11 377:2,16 486:4 533:10 546:1 618:3 619:16 656:20 4:3 615:3 4:30 479:1 480:17 699:2 4:35 704:11 40 374:20 400,000 374:10 388:2 408-7600 365:12 417 367:4 419 367:3 42,500 526:20 42,65 394:14 425 367:4 431 367:4 433 367:5 441 367:20,22 442 367:20,22 48 487:12 520:5 689:7 693:11 493 367:6 <u>5</u> 5 418:10 544:13,20	544:21 5,000 374:6,19 5,000 486:13 5,00 392:21 432:18 432:18,21 479:15 529:10 579:21 50s 425:20 426:20 50,000 388:1 50-percent 529:18 504 367:11 393:22 394:3 505 367:12 625:6,6 625:10 627:2 506 367:13 626:5,8 507 367:15 645:3,6 645:17 646:1,1,15 646:19 659:7 57 525:11 573:20 570 473:17 <u>6</u> 6 418:2,21 448:18 657:2 6,8 506:18 508:17 508:17 6:00 643:5 6:30 418:20 60 477:8 640:12,12 600 579:12,21 581:6 600-something 580:20 618 473:18 619,000 473:18 624-1996 365:22 626 367:13 63 688:14 645 367:15 646 367:15 65 372:3 392:5 66 599:14 663-8525 365:8 66449 599:14 69 542:1 <u>7</u> 7 375:9,13,15,17
---	---	--	--	--

Neal R. Gross & Co., Inc.
202-234-4433

377:4,17,21 378:7 395:22 397:4 400:13 448:18 449:10 686:13 691:19 7,500 526:21 7,5 483:22 7,9 485:7 70 465:1,3,4,4 466:1 498:2 499:15 531:1,4,4 531:5,15,17 563:12,12,16,20 564:21 565:11 566:10,13 584:1 70-station 466:1 71 531:4 720,000 474:7 73 371:16,19 389:6 389:12 595:8 602:14 603:14 75,000 388:1 765 687:7 78 385:14 389:8 427:14 600:10 602:16 604:17 605:2,20 609:20 610:9 <u>8</u> 8 379:7,7 395:15,19 398:21 420:6,7 478:17 516:20,21 8,000 473:20 8,173 394:13 8,635 687:7 8:00 659:15 8:15 659:16 80 389:15 391:8,11 391:18 393:16 583:4,5 584:1 610:9,12,18 612:14 613:11,14 613:15,19 615:20 615:20 640:12,12 659:10 80s 424:3	81 530:13 581:20 618:19 689:21 690:6 82 385:14 389:8,11 600:10 602:16 603:13 604:17 605:2,21 609:20 610:5,9 83 579:22 580:14 85,000 526:17 86 649:1 <u>9</u> 9th 534:14,16 9:00 364:16 704:8 704:13 9:03 368:2 90 429:12,20 568:11 900 571:12 572:14 578:8,17,17 579:21 580:21 900-plus 570:17 90024 365:21 95 492:13 641:6 643:3 644:16 648:1,2 95-percent 577:6 96 641:4,5,5 643:2 643:3 648:2,2 649:2 661:18 97 371:10,14 375:3 389:5 474:8 596:2 602:20 604:12 98,4 474:19 98,93 491:21 99 474:8 581:20 599:9 99-percent 598:11 99,69 491:22 99,7 474:19 99,72 491:21 99,8 678:9 99,80 492:1 566:4 99,9 385:21 601:3,9 998 702:3			
---	--	--	--	--

Neal R. Gross & Co., Inc.
202-234-4433

C E R T I F I C A T E

This is to certify that the foregoing transcript

In the matter of: Distribution of 2000-2003
Cable Royalty Funds

Before: LOC/CRB

Date: 06-04-13

Place: Washington, DC

was duly recorded and accurately transcribed under
my direction; further, that said transcript is a
true and accurate record of the proceedings.

Neal R. Gross

Court Reporter

NEAL R. GROSS
COURT REPORTERS AND TRANSCRIBERS
1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C. 20005-3701

Certificate of Service

I hereby certify that on Monday, March 12, 2018 I provided a true and correct copy of the 2000-2003 Phase II Transcript for Jun 4, 2013 to the following:

Public Television Claimants (PTC), represented by Dustin Cho served via Electronic Service at dcho@cov.com

MPAA-represented Program Suppliers, represented by Lucy H Plovnick served via Electronic Service at lhp@msk.com

Joint Sports Claimants, represented by Bryan L Adkins served via Electronic Service at Bryan.Adkins@apks.com

Devotional Claimants, represented by Jessica T Nyman served via Electronic Service at jessica.nyman@pillsburylaw.com

Canadian Claimants Group, represented by Victor J Cosentino served via Electronic Service at victor.cosentino@larsongaston.com

Signed: /s/ Ann Mace